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THE UNIVERSITY OF ALBERTA

EDUCATORS' PERCEPTIONS OF COPYRIGHT ISSUES

by

Amelia J. Turnbull

A THESIS

SUBMITTED TO THE FACULTY OF GRADUATE STUDIES

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Chester W. Bumbarger
Supervisor

K. L. Ward

Date June 22, 1983

Abstract

The purpose of this study was to examine Canadian copyright law and recommendations which have been made for change with a view to determining the major implications which copyright law has for basic education. The study also sought to gauge school superintendents' understanding of copyright law and to assess their reactions to particular copyright issues.

The research method employed was a survey of selected school superintendents in Alberta. A two-part questionnaire was distributed to superintendents who agreed to participate. Part A provided demographic information, and Part B gave the superintendents' responses on both factual and opinion questions. The findings revealed that the respondents possessed high academic qualifications, but little demonstrated interest in copyright matters.

An analysis of the responses on the factual questions established that these superintendents had a reasonable grasp of those principles of copyright which were explored. The analyses of the opinion questions indicated that these educators gave support to those proposals which would ensure teachers were not unduly hampered in their professional activities by restrictions imposed by copyright law.

The comparative analysis, which was carried out to determine whether or not there were any significant differences between various sub-groups of the population with respect to their opinions of key copyright issues, did not reveal any significant differences.

The implications of this study devolve from school superintendents' view of educators as consumers primarily. They were, therefore, concerned about consumer rights. This stance, which may place educators

in conflict with creators, could give rise to increasing court action. If such conflicts begin to develop, educators may have to become more cognizant of copyright laws. Finally, legislative draftsmen will have to give serious consideration to the legitimate concerns of the educational establishment as they strive to develop legislation which will be just and relevant.

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Chapter I

Introduction

Orientation

The Copyright Act of Canada was drafted almost sixty years ago. At that time much of our present day sophisticated reproduction technology was beyond the wildest imagination. Although it has been subjected to minor revisions from time to time, the Copyright Act remains essentially unchanged in spite of widespread recognition that the current legislation does not adequately meet the needs of our modern, technological society (Keyes and Brunet, 1977: 13).

Progress in re-designing the Copyright Laws of Canada has been slow largely because of the difficulty in getting agreement on what is fair and equitable to all interested parties. Some people argue that the needs of the creator are paramount; others, such as educators, feel that, if they do not profit personally from the use of copied material, they should have free access to all manner of material for instructional use.

The dichotomy existing between creator and consumer has to be resolved before effective copyright legislation which will meet the needs of this technological age can be drafted. If an adversary system is allowed to persist, the production/comsumption cycle will deteriorate resulting in substantial loss to all concerned (Parkinson, 1978: 38).

If educators are to make a positive contribution to the development and operation of this technosystem, they must have an understanding of what is involved in copyright. They will have to analyse their particular needs and be prepared to present their case, not with a view to their gaining the advantage but rather with a view to ensuring that the

technosystem will function for the benefit of all. They should realize that many of their needs are opposed by a wide variety of commercial interests with tremendous lobbying powers, and that they will have to develop alternate arguments to those of the commercial lobby (Burk, 1974: 5). If balance in the technosystem is to be maintained, the commercial interests cannot be allowed to become dominant. Informed educators could provide the checks necessary to maintain the balance.

Two educationally-related questions which emerge from this concern regarding the maintenance of balance in the technosystem are, "How well informed are educators concerning copyright issues?" and "What are their views on these issues?"

Statement of Problem

With respect to the educational problem outlined above, this study sought to assess the knowledge level of selected educators on specific copyright issues and to elicit their opinions on these issues.

Objectives of the Study

In order to obtain information pertinent to the problem, the following objectives were established:

1. to trace the development of copyright law;

2. to examine the existing Canadian copyright law and relevant case law with a view to unearthing the major implications which this legislation has for educators;

3. to study the recommendations which have been made for change in the existing legislation in order to determine issues which could create concerns for educators;

4. to determine the extent of educators' knowledge concerning copyright matters as they apply to education;

5. to assess the views of educators on copyright issues which impact on educational pursuits.

Significance and Need for the Study

One of the widespread concerns of today is, "What does copyright really involve?" This question arouses much general interest because, with the rapid technological advances of the last two decades, copying devices of all types now abound. What had once been a concern to only a relatively few people such as composers, authors, and publishers is now a concern to many members of society. A housewife may wonder if she is committing a crime if she turns on one of the videotaping devices, which have become available for home use, to tape a television programme for her children to view when they come home. A school principal may wonder what is the penalty, if any, for permitting teachers to use the school's photocopier to make copies of published works for distribution to classes.

New technological advances have also made it possible for the man in the street, as it were, to create and even publish his own copyrighted works. Amateur photographers are having their photographs published; teachers are producing their own audio-visual materials; and groups of students in many schools are making video productions.

Both the creation and consumption of copyright works are now occurring in greater volume than ever before and, as a consequence, many members of our contemporary society may have cause to think about where they stand in relation to copyright laws. Two questions which concern many people, including educators who handle copyright materials almost daily, are, "What are my rights as a creator?" and "What are the restrictions placed upon me as a consumer?"

Although these questions may be a concern, answers to them are not often sought. Many members of not only the general public but also of educational institutions regard copyright as a rather complex issue. There is considerable confusion and doubt about what is actually involved in copyright. Hiebert (1971: 26) expresses the opinion that copyright violation is in such a mess that no one dares to make a guess as to what is actually happening. The general attitude seems to be, "Let sleeping dogs lie."

Yet the general principles upon which copyright legislation in Canada is based are not all that complicated once they have been ferreted out. By drawing attention to existing copyright legislation and relevant case law in Canada, this study could contribute to an understanding of the general principles of copyright law in this country. This could be quite beneficial for many educators as it could resolve some of the uncertainties which now plague them both as consumers and as creators of copyright materials.

The data collected on the reaction of educators to the selected issues which may have a serious impact on educational organizations could be valuable indicators to the architects of the new legislation. The people responsible for drafting the new legislation need to know what educators will and will not find acceptable as only those laws which have widespread acceptance are enforceable.

Delimitations

This study was delimited in the following ways:

1. only Canadian copyright legislation was examined;

2. the recommendations examined were those which were very directly related to education;

3. the sample was restricted to educators resident in Alberta.

Limitations

The study was subject to the following limitations:

1. knowledge and understanding of the population selected;

2. personal variables beyond the control of the researcher which could impinge on the judgements made by the respondents;

3. the techniques employed.

Organization of the Thesis

The thesis has been organized in five chapters. Chapter I is a general introduction which states the problem.

In Chapter II a review of pertinent literature including both statute and case law is given.

Chapter III describes the research procedures used in the study. The method of sample selection, the instrument design and distribution, and the collection, treatment, and recording of data are presented in this chapter.

Chapter IV contains the analysis of the data obtained from the research procedures described in Chapter III.

In Chapter V, the concluding chapter, a summary of the study together with some implications of the study and a list of possible topics for further research is presented.

Several appendices are included to provide additional information concerning this study.

Chapter II

Review of Literature

Introduction

The purpose of this chapter is to provide an overview of the development of the copyright concept, of existing copyright legislation and of relevant case law in Canada in order to obtain an understanding of the general principles of copyright law in this country; and then to examine those recommendations made for revision which are particularly relevant to education.

Development of Copyright Law

History of Copyright Law

Much of our contemporary Western culture has its roots in ancient Rome. This is especially true of law. Many of the fundamental principles on which the contemporary Western legal systems are based were emerging during Roman times. Copyright is no exception to this general rule for, although the right of an author to ownership of his production was unknown in Roman law (Fox 1967: 7), the concept of plagiarism was developed during Roman times.

The basic principles of copyright continued to emerge in medieval Europe as the Irish case of Finman v. Columbia shows. This case which involved the copying of a prayer book without permission was brought before King Diarmid in 561 A.D.. His decision, "to every cow her calf, to every book its copy", indicated that he believed copyright had been infringed on this occasion (Keyes 1977: 401).

The need for stringent copyright laws did not arise, however, until a technology was developed which permitted widespread distribution

of an individual's composition. The first step in the evolution of this technology was the development of the printing press which allowed the large scale publication of books. Because books could be produced relatively quickly and cheaply, a publishing industry was soon established and began making demands for protection. The ground work for the modern copyright laws of England and of those countries which inherited the British legal system was laid when the Tudor monarchs granted protection in the form of monopolies to the infant publishing industry. The printers of London were allowed a monopoly on each work they produced provided the Crown had the opportunity to censor it (Copringer and Skone James 1971: 7-8).

Evolution of English Copyright law. Although the principles of copyright had long been recognized in England, it was not until the Statute of Anne, 1709, that the rights of authors were formally recognized in law. This statute declared that authors or their assigns should have the sole right of publication for a definite term of years, and it provided penalties for the violation of those rights (Copringer and Skone James 1971: 11). This statute, which framed authors' rights as property rights, has been the foundation on which all subsequent copyright legislation in England has been based. In 1833, the provisions of this first copyright Act were supplemented by the Dramatic Copyright Act, and in 1842, the existing copyright laws were consolidated and amended by the Literary Copyright Act. This was gradually supplemented by other acts until the Copyright Act, 1911, repealed and replaced all prior legislation except the Copyright Act of 1902 and the Musical Copyright Act of 1906.

Development of Canadian Copyright Law. Until Confederation, British copyright law applied in Canada. It was the British North America Act, 1867, which conferred upon the Dominion Parliament exclusive jurisdiction in matters of copyright. The first Canadian Copyright Act was passed in 1868, and the next in 1875. While both of these acts made provision for the registration of copyright in Canada, registration of copyright in London still gave title to copyright in Canada. In 1924, all prior copyright legislation was repealed, and the new Copyright Act which was passed in 1921 came into force (Fox 1944: 23-24). This Act, which was virtually a copy of the 1911 British Copyright Act, is still the main source of copyright law in Canada. Only minor amendments have been made through the years. Although this Act is now very much out of date and does not adequately meet the needs of a modern technological society where copying devices of all kinds abound, it has remained in force so long because the task of drafting legislation which would be acceptable to all concerned has been extremely difficult. The difficulty does not lie in establishing the principles of copyright - these have been recognized since ancient times - but rather in striking an equitable balance between the rights of the author and the interests of the consumers (Keyes and Brunet, 1977: 14).

International Agreements

The Berne Convention. Canada's development of copyright legislation is constrained to some extent by the country's adherence to two International Conventions. The first convention to which Canada was party was the Berne Convention of 1885 which was held to develop

international legislation for the protection of copyright. This legislation was amended on several occasions to increase the extent of the protection. Countries which adhere to the Conventions have had to amend their domestic legislation to bring it into line with international legislation. Because Canada wished to have greater freedom in revising its domestic legislation, it did not ratify any of the more recent agreements and remains at the level of the Rome Text, 1928.

The Universal Copyright Convention. Most of the major countries of the world were members of the Berne Convention but three important exceptions were the United States of America, the Union of Soviet Socialist Republics, and China. The Universal Copyright Convention was formulated at Geneva in 1952 to establish some legal relationship between those countries which adhered to the Berne Convention and those which did not. At this convention it was agreed that each member country would give the same protection to citizens of member nations as it gave to its own citizens. Under its terms, international copyright is obtained without the performance of any formalities other than the placing on the work of the symbol © accompanied by the name of the copyright proprietor and the year of first publication (Canadian Abridgement [2nd] Vol. 7, 1967: 859).

Nature of Copyright

Definition of Copyright. The theory on which British and Canadian copyright laws have been based is that copyright is a particular form of property - intellectual property. It is like other property in that it can be bought, sold, or leased, but it differs from other property in that it does not have a perpetual existence (copyright protection

is for a term certain) and it must be treated separately from physical property and its associated rights (Canadian Encyclopedic Digest, (Western) Vol. 5, 1958: 259).

Keyes (1977: 401) provides a concise, yet explicit, definition of copyright in which he explains that it is simply the right of an author to control the use of his/her intellectual creation. Of course, the Copyright Act of Canada does provide an extensive definition of copyright. According to Section 3 (1) of this Act, copyright gives the owner the sole right to produce or reproduce the work or any substantial part of the work, to perform the work in public, to publish the work, and includes the right to translate, to convert, to record, to film, to adapt, and to broadcast the work.

Works Protected by Copyright. Copyright protects only the actual mode of expression used to convey the idea(s). Copyright does not protect the ideas or theme expressed. The ideas are regarded as public property and anyone is entitled to use the information, ideas, and facts contained in a protected work. Copyright does not allow a monopoly on information and knowledge (Keyes and Brunet, 1977: 22).

The rights associated with copyright are, therefore, negative rights which prevent others from using an author's mode of expression without his/her permission. Nonetheless, it is possible to produce an identical or nearly identical work, for example a map of the school district, and not infringe copyright if it can be shown that the production of the work was entirely through one's own independent skill and labour, and no copying of another author's expression was involved. It is also permissible to use another's work to verify or to direct one's own work (Canadian Encyclopedic Digest (Western) Vol. 5, 1958: 294).

The Bureau of Intellectual Property in its monograph on copyright (Undated: 2) points out that case law has established that the following items are not protected by copyright:

(i) titles, names, short phrases and slogans, listing of ingredients or contents;

(ii) ideas, methods, systems, schemes, or games;

(iii) blank forms, time cards, score cards, and the like which are designed to record information rather than convey it;

(iv) the idea of a "character" apart from a drawing or a comic strip in which it appears.

Registration of Copyright. In Canada, no formal registration is required for copyright protection. Copyright is automatically accorded to any work created by a Canadian citizen or a citizen of a country which adheres to either the Berne Convention or the Universal Copyright Convention. The Bureau of Intellectual Property does provide a voluntary registration system. Registration of copyright ensures that the author will have no difficulty in establishing in any court of law his/her ownership of the copyright of a specified work. Registration of copyright has the secondary advantage of allowing any interested person to find out who holds the copyright for a particular work.

Social Value of Copyright. The concept of copyright has evolved over the years largely in response to technological developments. As a result copyright legislation has been extended to cover new media such as sound recordings and motion picture films. New rights have also emerged in response to these developments and the most significant pecuniary value of copyright has undergone a radical change. Previously, the main value of copyright was the exclusive rights it gave

for production and reproduction of physical copies. Now, with the growth of the entertainment industry, protection covering public performance of a work is more important. This is especially true of musical works (Keyes and Brunet, 1977: 3).

Today copyright legislation provides the legal framework for not only the publishing industries, but also for the recording, film, broadcasting, and entertainment industries. Keyes and Brunet (1977: 4) see copyright as having considerable social significance in that it provides an incentive to create and to publish. It provides a means to disseminate information and knowledge which, in turn, encourages further dissemination of ideas. Torno (1981(a): iii) explains Canadian copyright legislation is predicated upon the notion that creative work is to be encouraged and rewarded, but private motivation must ultimately promote broad public availability of literature, music, and other arts. While the immediate effect of the Copyright Act is to secure a fair return for an author's creative labour, the ultimate aim is to stimulate artistic creativity for the general public good.

General Principles of Copyright Law

In the following overview of the general principles of copyright law, the majority of cases discussed are those which have been cited in either the Canadian Abridgement (2nd Edition) or the Canadian Encyclopedic Digest (Western)(2nd Edition), the usual abbreviation of which is C.E.D.

Subject Matter of Copyright

A common worry among educators is, "What works are subject to copyright protection?" This is a difficult question to answer in Canada where registration of copyright is not mandatory. There are,

in fact, four conditions which must be satisfied for a work to secure copyright protection in Canada. The four criteria provided in the Act for determining eligibility of works for copyright protection - originality, category of the work, qualifications of the author, and fixation - must be examined in some detail.

Originality. The Copyright Act requires that the work be original but it does not define "originality". Case law has established that to be "original" the work must be the product of the author's independent labour and skill.[1]

Even though original thought is not required, translations, adaptations, compilations and new musical arrangements are protected as original works. Keyes and Brunet (1977: 42) point out that a distinction is, however, made between literary, artistic, dramatic, and musical works on the one hand and sound recordings and films on the other.

Sound recordings and films are not considered "original works" since they themselves incorporate original subject matter. That is, copyright in films and sound recordings is ancillary to the rights of the authors whose original works were embodied in the audio-visual material. Copyright in the latter is generally considered a separate and independent right.

Categories of Works. The second criterion necessary for a work to secure copyright protection arises from Section 4 (1) of the Copyright Act which reads:

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[1] Canadian Admiral Corporation v. Rediffusion Inc. (1954), Ex. C.R., 382.

> subject to this Act, copyright shall subsist in Canada for the term hereinafter mentioned in every original literary, dramatic, musical and artistic work . . .

In Section 2 of the Act every original literary, dramatic, musical and artistic work is interpreted as including:

> every original production in the literary, scientific or artistic domain, whatever may be the mode or form of its expression, such as books, pamphlets, and other writings, lectures, dramatic or dramatic-musical works, musical works or compositions with or without words, illustrations, sketches, and plastic works relative to geography, topography, architecture or science.

Detailed definitions of literary work, artistic work, work of sculpture, engraving, photograph, book, lecture, dramatic work and musical work are also given in Section 2.

Some of these definitions have been liberally interpreted and extended by case law. Court decisions have established the following principles.

Literary works have been extended to include almost all works expressed in printing or writing regardless of their literary quality or style. Directories, examination papers, and railway time-tables have been classified as literary works. However, some labour, skill, or mental effort must be expended in expressing the idea. In Greyhound Racing Association Ltd. v. Shallis[2] the court ruled that a mere list of racing dogs and their numbers was not protected by copyright.

Further elaboration on the term "book" was given by Maclean in the case of Underwriters' Survey Bureay v. Massie and Renwick Ltd.[3]

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[2] Greyhound Racing Association Ltd. v. Shallis (1928) Macq. Cop. Cas., 370.

[3] Underwriters' Survey Bureay v. Massie and Renwick Ltd. (1938), Ex. C.R., 103.

> The word "book" as used in the statute is not to be understood in its technical sense of a bound volume, but any species of publication which the author selects to embody his production. There is no distinction between the publication of a book and the publication of the contents of such a book, whether such contents be published piecemeal or en bloc.

Although both the actual words and the dramatic incidents created in a dramatic work are protected by copyright, the scenic arrangement or acting form must be "fixed in writing or otherwise" and be capable of being printed and published, thus providing certainty in the monopoly created (5 C.E.D., 1958: 276).

Cinematographic works are considered in Section 2 of the Act to be dramatic works. Cinematograph is defined in this Section as being any work produced by any process analogous to cinematography. The Act, therefore, gives protection to motion picture films where the arrangement, or acting form, or combination of incidents represented gives the work an original character. Even if the motion picture film is not protected on this criterion as a dramatic work under Section 3 (1)(e), it will be protected as a photograph.

A significant principle in regard to cinematographic works was established in the case of Canadian Admiral Corporation v. Rediffusion.[4] The decision in this case was that neither the process nor the result of the live telecasting of a sporting event was analogous in any way to that of photography or cinematography. Even with film telecasts, the plaintiff was not entitled to the protection afforded to a cinematograph production but only to the same protection as a series of

---

[4] See Footnote 1.

photographs. This principle arises from Section 2 of the Act which states that a dramatic work must be original in character.

This decision emphasizes the fact that, under the present Act, videotapes are probably not protected by copyright because they are not produced by a process analogous to cinematography and similarly they cannot be classified as photographs (Keyes and Brunet, 1977: 82).

Sound recordings are protected under Section 3 (1)(a) of the Copyright Act. The statutory definition of copyright includes in the case of a literary, dramatic, or musical work, the right to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered. "Performance" is defined in Section 2 as meaning "any acoustic representation of work . . . including a representation made by means of any musical instrument or by radio communication."

Essentially then the works protected by copyright are literary, dramatic, musical, and artistic works which include books, pamphlets, poems, charts, maps, plays, sheet music, sound recordings (records and tapes), motion picture films, paintings, drawings, sculpture, engravings, and photographs. The notable omission under existing legislation is videotapes which are accorded no specific protection.

Qualifications of Authors. The authors who qualify for copyright protection in Canada are listed in Section 4 of the Act. Copyright shall subsist in every original literary, dramatic, musical and artistic work, if the author was, at the date of making the work,

1. a British subject, or

2. a citizen or subject of a foreign country that has adhered to the Berne Convention and the Additional Protocal (Berlin, 1908), or

3. a resident within Her Majesty's Realms and Territories, or

4. a citizen or subject of a country named in a ministerial certificate, for example, citizens of the United States of America.

Because this section of the Act is not in complete accord with the international conventions which Canada has ratified, there is some ambiguity as to which foreign countries are included in item 2.

Fixation. The final criterion which must be satisfied for a work to secure copyright protection in Canada is permanence or fixation. This requirement arises from Section 2 of the Act where it is stated that the work must be fixed in writing or otherwise. Case law has placed considerable emphasis on this requirement. The case of The Canadian Admiral Corporation Ltd. v. Rediffusion Inc.[5] established that a work must be expressed in some material form, capable of identification and having a more or less permanent endurance. While a photograph does have permanent, concrete form, an image produced on a television set in the case of live telecast cannot be considered to have permanence. If, however, the event is filmed and the film is televised, the film would be protected by copyright. This requirement of fixation reinforces the principle that copyright protects a particular form of expression, not ideas (Keyes and Brunet, 1977: 40).

The present Act does not accord protection to a musical work which is composed and recorded on tape - a practice which is common today with pop music. The Act states specifically that a musical work must be printed, reduced to writing, or otherwise graphically produced

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[5] See Footnote 1.

or reproduced. Thus the traditional concept of "sheet music" is enshrined in the Act, and no accommodation is provided for newer forms of musical notation.

Similarly, a lecture is not protected by copyright if it is merely delivered and simultaneously recorded on an audiotape. Existing case law has established that lectures, addresses, speeches, and sermons must be expressed in permanent form, but the only permanent forms which have been specified are printed and written forms - the latter would include extensive notes. Thus to qualify for copyright protection, a lecture must be expressed in either print or writing before it is delivered (Keyes and Brunet, 1977: 41).

General Principles. The general principles that apply to the subject matter or works protected by copyright are:

1. the work must be an original expression of ideas, but the ideas need not be original;

2. the work must be classified as literary, dramatic, musical, or artistic;

3. the author of the work must meet certain citizenship or residency stipulations and the work must be first published in certain specified countries;

4. the work must have such a permanent form as has been defined by statute or case law.

Term of Copyright

The protection of copyright is not afforded to an owner in perpetuity. The Act stipulates the period of protection and, when that time has expired, the works falls into the public domain. The usage of

any work in the public domain does not constitute an infringement of copyright.

First Basic Principle. Depending on the subject matter of the material, there are two basic principles which determine the term of copyright protection. For literary, dramatic, or musical works or an engraving, the term for which copyright shall subsist is, as a general rule, the life of the author and fifty years after his death. Section 5 of the Act does, however, provide some exceptions to this general principle. If the author dies before the work is published or performed in public, copyright shall subsist until publication and/or performance and for a term of fifty years from that date. In the case of works of joint authorship, copyright protection is afforded for the duration of the life of the author who dies last and fifty years thereafter. Since there is no compulsion to publish or perform any work, a literary, dramatic, or musical work, or an engraving may retain protection indefinitely providing the work is not published or performed.

Second Basic Principle. In the case of photographs, sound records, perforated rolls, and government publications, a term of only fifty years' protection is afforded. This term is calculated:

1. for photographs from the date of making the original negative;

2. for records, perforated rolls and the like from the date of making the original plate;

3. for government publications from the date of the first publication.

Further Considerations. There is some uncertainty with regard to the period of time during which copyright protection is afforded to a cinematographic film. If the film is considered to be a mechanical contrivance reproducing sound, the period of protection would be fifty years. If, however, the film is considered to be a dramatic work, the period of protection would extend to fifty years from the death of the maker of the film (Keyes and Brunet, 1977: 79).

While the current Act stipulates the term of protection when the author is an individual, a partnership, or the Crown, it does not specify the term of protection when the owner of the copyright is a corporation which has perpetuity. This is a serious omission in the current Act for a corporation, such as a school board, cannot be certain that works prepared by the corporate employees are protected for any specific period of time.

Ownership of Copyright

Author is First Owner. Section 12 of the Act states:

> . . . the author of the work shall be the first owner of the copyright therein.

The Act does not, however, clearly define "author" except in regard to photographs, records, and perforated rolls. Section 9 states:

> . . . the person who was the owner of such negative at the time when such negative was made shall be deemed to be the author of the photograph so derived.

Section 10 states:

> . . . the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of such contrivance.

Because, apart from these two instances, the Act has not defined "author", this term has been subject to interpretation in case law.

Kantel v. Grant (1933)[6] established that the author is the person who actually writes, draws, or composes the work. It has also been established in case law that neither contribution of suggestions[7] nor mere copying[8] constitutes authorship.

When a work is a product of joint authorship, the joint authors own equal shares, but, when a work is a collection of works by different authors, each author owns the copyright of his particular contribution and the person(s) responsible for the compilation owns the copyright to the collective whole (5 C.E.D., 1958: 286).

Instances When the Author is Not First Owner. The major exception to the principle that the author is the first owner of copyright occurs when the works is made in the course of employment. Section 12 (3) of the Act states:

> Where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright.

Two questions which arise from this Section of the Act are, "What constitutes a contract of service?" and "What are the parameters for the course of his employment?" For the purpose of interpretation of the Act, a contract of service must be distinguished from a contract for service, that is, an employee must be distinguished from an independent contractor. Case law has established that a contract of service exists when the employer can prescribe not only what is to be done but also

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6 Kantel v. Grant (1933), Ex. C.R., 84, at 93.

7 Kenrich and Co. v. Lawrence and Co. (1890), 25 Q.B.D., 99.

8 Commercial Signs v. General Motors Products of Canada Ltd. (1937), D.W.N. 58, affirmed (1937) 2 D.L.R. 800 (C.A.).

how it is to be done. With a contract for service the employer cannot control the manner in which the work is done; the contract would be offered on a temporary, rather than a permanent basis; and the independent contractor could work for several employers (Miller, 1974: 12-13).

A good illustration of the parameters of the course of employment was given by Lord Justice Denning in Stevenson Jordan and Harrison Ltd. v. MacDonald and Evans.[9] This is a particularly apt illustration for teachers. Lord Denning explains:

> When a doctor on the staff of a hospital or a master on the staff of a school is employed under contract of service to give lectures or lessons orally to students, if, for his own convenience, he puts the lectures into writing, then his written work is not done under the contract of service. It is most useful as an accessory to his contracted work, but it is not really part of it. The copyright is in him and not his employers.

One may, therefore, conclude that, when the work produced exceeds the job requirements, the employer cannot claim title to the copyright.

Section 12 (3) of the Act does go on to give some restraining power to the author under the contract of service who produces a work in the course of his employment. The Act states:

> . . . where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine or similar periodical.

The second major exception to the principle of author as first owner of copyright is outlined in Section 12 (2) of the Act and applies to the commissioning of a photograph, portrait, or engraving. When

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9 Stevenson Jordan and Harrison Ltd. v. MacDonald and Evans (1952), 1 T.L.R., 101.

such a work is ordered by some other person and is made for valuable consideration in pursuance of that order, then in the absence of any agreement to the contrary, the person who orders the plate or other original is the first owner of the copyright (5 C.E.D., 1958: 287).

Essentially then the author is not the first owner of the copyright either when he/she is employed under a contract of service or when the work has been commissioned.

Rights of Owners. Important to the consideration of ownership of copyright is the question of author and/or owner rights. As was mentioned previously in the section on Nature of Copyright, copyright is a separate entity from the physical manuscript. The transfer or sale of the manuscript or other material object does not of itself serve to transfer the copyright herein.[10] Copyright is retained by the owner unless he/she specifically assigns it to another. The Act regards copyright as being divisible as to content, territory, and time, and it permits the owner to assign the right either wholly or partially, either generally or subject to territorial limitations, and either for the whole term of the copyright or for any other part thereof. This assignment is not valid, however, unless it is in writing and is signed by the owner of the right or by a duly authorized agent. The assignee can claim ownership of only those rights which have been assigned to him/her. Any rights not specifically assigned remain the property of the owner. Where the author is the

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[10] Underwriters' Survey Bureau Ltd. v. Massie and Renwich Ltd. (1942), S.C.R., 218.

first owner of the copyright, the assignee's ownership is limited to twenty-five years after the death of the author unless there is provision in the will to extend this period. Upon the death of the author, the reversionary interest in the copyright must devolve on his/her legal representative, except in the case of collective works.

Rights of Authors. Even when the author does not own the copyright, under Section 12 (7) of the Act, he/she still has the right to claim authorship and the right to restrain any distortion, mutilation, or other modification of the work that would be prejudicial to his/her honour or reputation. As was mentioned previously in this section, the author employed under contract of service, to produce a contribution to a newspaper, magazine, or periodical can restrain the publication of his/her work otherwise than as part of a newspaper, magazine, or similar periodical.

Infringement of Copyright

Because one of the fundamental principles of the Law of Tort is that an employer is liable for any tort committed by the employee in the course of his/her employment, an employer should be aware that he/she is liable for any copyright infringement committed by an agent or a servant in the course of his/her employment. This principle was established in the case of Canadian Performing Rights Society Ltd. v. Ming Yee.[11] A school board should, therefore, realize that it may be held liable for any infringement committed by teachers or staff and the board would be wise to take any steps necessary to ensure that both administrators and teachers in its employ are cognizant of what activities are likely to be regarded as infringing copyright.

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[11] Canadian Performing Rights Society Ltd. v. Ming Yee (1943), 3 W.W.R., 268.

The preceding review of existing copyright legislation has offered some explanation about what kinds of works are protected by copyright, the period of time during which these works will be protected, and the prerogatives of owners and authors of copyright materials. By facilitating an understanding of what constitutes copyright protection, the previous sections have, as a consequence, produced some notions about what might constitute an infringement of copyright laws. The next consideration in this review will thus be an examination of what will and what will not be regarded as infringement of copyright.

General Principles of Infringement. Section 17 (1) of the Act states that:

> Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything that, by this Act, only the owner of the copyright has the right to do.

Because Section 3 of the Act gives the owner of the copyright the sole right to convert any work protected by copyright into another form, it is obviously an infringement for any other person to convert any such works into another form, for example, a novel into a screen play or a painting into a photograph. Either a reproduction of the work or a performance in public would constitute infringement. Case law has established in Kelly v. Cinema House Ltd.[12] and Sutton Vane v. Famous Players Film Co.[13] that, while the taking of a plot would not

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[12] Kelly v. Cinema House Ltd. (1932), Macg. Cop Cas., 362.

[13] Sutton Vane v. Famous Players Film Co. (1928), Macg, Cop. Cas., 7.

constitute infringement, the reproduction of dramatic situations, incidents or characters as in the original work would constitute infringement.

An interesting point for drama teachers to note is that, if any artistic work is substantially copied or reproduced in any form, for example, an arrangement of stage scenery copied from a photograph, the court could rule that the copyright in the photograph had been infringed (5 C.E.D., 1958: 296).

Another right conferred by Section 3 of the Act on an owner of a copyright work is the sole right to perform that work in public. In Canadian Corporation Ltd. v. Rediffusion Inc.[14] the point was made that mere performance of a work may not constitute infringement. The work must be performed "in public" before a claim of infringement is upheld. A performance that is of a domestic or quasi-domestic character will not, therefore, be regarded as an infringement of copyright. If it is accepted that a school has a quasi-domestic character, this principle could be interpreted to mean that a performance of a work by students in a classroom or even before an entire school may not infringe on copyright, providing no members of the general public were admitted to the performance. The relevant case law suggests that the criterion for determining whether or not an infringement has occurred is the character of the audience (5 C.E.D., 1958: 297).

In contrast to this general principle concerning performance in public, the Act in Section 50 (7) has provided an exception for a radio

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[14] See Footnote 1.

performance. This Section of the Act states that copyright is not infringed if a public performance is given by means of any radio receiving set or gramophone in any place other than a theatre that is ordinarily and regularly used for entertainment to which an admission charge is made. Under the present law, schools are not infringing copyright if they play the radio to their students or if they conduct a dance at the school at which either the radio or a gramophone or jukebox is played. It should be noted, however, that the current law does not extend this exception to tape recordings.

Several other exceptions to infringement of copyright are also provided under current legislation.

Exceptions for Education Institutions and Materials. Educators will be interested to note that certain exemptions, although perhaps rather minor, are provided under the Act for educational institutions and for some materials designed for use in schools. Section 17 (3) of the Act provides that a church, college, school, or a religious, charitable, or fraternal organization cannot be held liable to pay any compensation to the owner of any musical work by reason of the public performance of any musical work in furtherance of a religious, educational, or charitable object. Because the Act does not say specifically that such a performance by this type of organization is not an infringement, an injunction to prohibit the performance could possibly be obtained.

The Act also provides that, when short passages from published literary works not themselves published for the use of schools are published in a collection mainly composed of non-copyright matter,

copyright will not be infringed if not more than two such passages from works by the same author are published by the same publisher within five years and if the source from which the passages were taken is acknowledged.

Another point that may be of particular interest to educators is that the reading or recitation in public by one person of any reasonable extract from any published work will not constitute an infringement of copyright.

Fair Dealing. Perhaps the most important exception to infringement of copyright is the provision in the Act with regard to fair dealing. The Act will permit any fair dealing with any work for the purpose of private study, research, criticism, review, or newspaper summary. This section should not be construed as providing a carte blanche for copying, it must rather be viewed as providing only a statutory defence against a claim of infringement. An infringement can occur only when some other person exercises the exclusive rights of the owner of the copyright. These rights include the sole right to produce or reproduce the work or any substantial part thereof and the right to perform the work or any substantial part thereof in public. Thus before the Court can ascertain whether or not the defence of fair dealing will be upheld, it must determine whether or not an infringement did occur. The court must, therefore, first address the question, "Was a substantial part of the work reproduced or performed?" (Keyes and Brunet, 1977: 147)

Because the statute does not define "substantial", guidelines have been established by the courts. In cases brought before the courts, not just the quantity of the work that was copied but also

the quality of the copied section will be examined. While the copying of several pages may not constitute infringement in some cases, the copying of only a page could in other cases be regarded as a substantial part if that part contains the key points in the work. In the case of Canadian Performing Rights Society Ltd. v. Canadian National Exhibition Association,[15] the court explained that, in determining whether a substantial part of the composition had been played, the true test was not how much or how many bars had been played but whether enough of it had been played to enable a listener to identify the composition.

Once it has been established that an infringement has occurred, then the defence of fair dealing can be examined. Items for consideration in this regard would involve the amount of quotation taken and the use to which it had been put. In the case of Zamacois v. Douville,[16] the court ruled that the quotation of a work in its entirety cannot be regarded as fair dealing even if the author and the source are acknowledged.

In regard to use of the extract, Williams (1974: 5) explains:

> . . . if someone owns copyright in a compilation of folk songs, it might well be copyright infringement for someone to reproduce one or two of those folk songs if the folk songs were reproduced for use by the music teacher. On the other hand, if the songs were reproduced for the purpose of historical study by a history or social studies teacher, the result might well be different. What matters is not so much the intention of the users as the purpose to which the second work could be put.

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[15] Canadian Performing Rights Society Ltd. v. Canadian National Exhibition Association (1934), D.R., 610.

[16] Zamacois v. Douville (1943), 3 Fox Pat CC 46, 2 CPR 270 (1943), 2 D.L.R. 257, Ex. Ct.

Keyes and Brunet (1977: 148) summarize the current position in regard to fair dealing when they explain that the possibility of competition between the extract or quotation and the original work will always be an element in the consideration of what amounts to fair dealing. The quality and value of what is taken is a factor in deciding whether or not there has been fair dealing.

In Section 17 the present Law of Copyright does, therefore, provide a number of exceptions to what might, in view of other sections of the Act, be considered infringements of copyright. The major exceptions of interest to educators include performance of a musical work in furtherance of a religious, educational, or charitable object; publication of literary works for the use of schools; reading or recitation in public of a reasonable extract; and fair dealing for the purpose of private study, research, criticism, review, or newspaper summary.

Remedies for Infringement

A final consideration which should be of interest to educators is the consequences if a claim of infringement is upheld.

Two types of remedies, civil and summary, are provided for infringement of copyright. Civil remedies allow a successful plaintiff to obtain damages and/or an injunction, and summary remedies require an unsuccessful defendant to pay a fine or serve a prison term.

Civil Remedies

The guiding principles for civil remedies for infringement of copyright are found in Section 20 of the Act. Subsection 17 states:

> Where copyright in any work has been infringed, the owner of the copyright is, except as otherwise provided by this Act, entitled to all such remedies by way of injunction,

damages, accounts, and otherwise as are or may be conferred by law for the infringement of a right.

Presumptions. Subsection (3) stipulates that in any action for infringement the following presumptions are made:

(i) the work shall, unless the contrary is proved, be presumed to be a work in which copyright subsists; and

(ii) the author of the work shall, unless the contrary is proved, be presumed to be the owner of the copyright.

Evidence. The case of Deeks v. Wells[17] is notable because it provided guidelines for what evidence might be necessary to prove that copying had occurred. The court suggested that evidence as to plagiarism might fairly be said to consist in similarity in language, common inclusions, common omissions, and common mistakes. Similarities may, however, be explained by the nature of the works which may render common elements as being avoidable and by the fact that both writers may have relied on common sources.

Defence. Just as in other fields of litigation, the legal maxim that ignorance of the law is no excuse will apply to any litigation involving infringement of copyright. Ignorance or good faith is, therefore, not a valid defence. A plea of ignorance by the defendant will, however, prevent a plaintiff from claiming damage if the defendant can prove that, at the date of infringement, he was not aware and had no reasonable grounds for suspecting that copyright subsisted in the work. Section 22 of the Act provides that, in such a situation, the

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[17] Deeks v. Wells (1933), 1 D.L.R., 353

plaintiff is not entitled to any remedy other than an injunction unless, if at the date of the infringement, the copyright in the work was duly registered under the Act. This could be a most important reason for registering the copyright in a work.

Damages. Under Section 20 (4) of the Act, any person who infringes the copyright in any work protected under the Act is liable to pay such damages to the owner of the right infringed as he may have suffered due to the infringement, and in addition thereto such part of the profits that the infringer has made from such infringement as the court may decide to be just and proper.

In assessing damages the principle of restitution in integrum, that is, returning the plaintiff to the position he would have been in if the infringement had not occurred, is applied. Important guidelines for assessing the amount of damages have been set by a number of cases. Key points to note from these cases are:

(i) in the absence of satisfactory evidence of the plaintiff's losses, the measure of damages must be the profits made by the defendant from all sales of pirated work;[18]

(ii) when no actual damage is proved but a deliberate and willful tort has been established, the plaintiff is entitled to damages at large including exemplary and nominal damages;[19]

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[18] Beauchemin v. Cadieux (1901), 31 S.C.R., 370.

[19] See Footnote 10.

(iii) where a plaintiff can establish clearly that the defendant's profit would have been his/hers but for the infringement, these profits then become the plaintiff's loss and are the measure of the damages sustained by the defendant.[20]

Summary Remedies. Sections 25 and 26 of the Act stipulate that a person who is found guilty of committing specific offences is liable on summary conviction to a fine or imprisonment. These offences include:

(i) making, selling, distributing, exhibiting, and importing any infringing copy of a work in which copyright subsists,

(ii) having possession of any plate for the purpose of making infringing copies,

(iii) knowingly performing any work protected by copyright,

(iv) making any change in or suppression of the title, or the name of the author of any dramatic, operatic, or musical work in which copyright subsists.

On a summary conviction it is necessary to prove only that an offence was committed; mens rea, or guilty intention, is not considered.

The penalties for infringing copyright, which include paying damages, obeying a court injunction, paying a fine, or serving a prison sentence, are both serious and costly. People who work with copyrighted materials should, therefore, be fully cognizant of these penalties.

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[20] Hay and Hay Construction Ltd. v. Sloan (1957), O.W.N., 445.

Recommendations for Revision

Need for Revision

As has been explained previously, the inadequacies of Canadian Copyright Law are obvious since they do not meet the needs of our contemporary society. The Copyright Act of Canada was drafted early in this century when much of our present-day sophisticated gadgetry was not imagined even by science fiction writers. Although it has been subjected to minor revisions from time to time, the Copyright Act remains essentially unchanged and is in urgent need of redrafting. The Federal Government has recognized this since 1954 when it struck the Royal Commission on Patents, Copyright, Trade Marks, and Industrial Design (Keyes and Brunet, 1977: 6). Some extensive studies have been undertaken since then and redrafting of the law will begin in the near future.

Many recommendations for revising the legislation have been made by various groups and individuals. In this section a few of these recommendations which may be of particular interest to educators will be reviewed. The recommendations will be considered under the headings used to discuss current copyright legislation - Subject Matter, Term, Ownership, Infringement, and Remedies.

Subject Matter

Since the current Copyright Act makes no reference to corporations, e.g. school boards, as copyright owners, Keyes and Brunet (1977: 45) suggest that juridical persons also be listed as qualified persons to whom the protection of the Act would extend. These would include bodies incorporated in Canada and Convention countries.

With the development of new recording technology, the existing Act is seriously out of date as it does not protect any musical work or lecture recorded solely on audiotape. Keyes and Brunet (1977: 42) recommend that the definition of fixation allow for any means capable of capturing the work fixed thereby.

Term of Copyright

Changes which have been recommended in regard to the term of protection arise from the need for clarification and a need for equity. Keyes and Brunet (1977: 63) suggest that clarification is required where the original owner is either a corporation or an employer, but no term for protection in these cases is proposed. As sound recordings and films are normally produced by a corporation, Torno (1980: 31) proposes that these works be protected for a fixed term. With photographs, Torno (1980: 34-5) indicates that there is no merit to the retention of the discriminatory treatment accorded to photographs in respect to the term of protection. He recommends that the term of such protection be the same for all artists' works which is the life of the author plus fifty years.

Ownership of Copyright

Photographs. Torno (1981(b): 15) points out the lack of consistency between Section 9 of the Copyright Act where authorship is determined by ownership of the photographic material and Section 12 (1) where the fundamental principle of copyright law, that the author shall be the first owner of the copyright, is expressed. Torno argues that the author should be considered to be the person who composed the photograph. Thus the photographer would automatically be the first owner of the copyright therein.

Sound Recordings. The inconsistency between Section 10 where the owner of the original plate is deemed to be the author of a sound recording and Section 12 (1) is also highlighted by Torno. He recommends (1981(b): 24) that the person principally responsible for the arrangements undertaken for the making of the sound recording be defined as the author. His second recommendation in regard to sound recordings is that they be protected in their own right as another protected class of works (1981(b): 18).

Cinematographic Works. Torno (1981(b): 36) makes a similar recommendation concerning cinematographic works which, together with sound recordings, are under the current legislation viewed as possessing rights ancillary to rights derived from those original works which are incorporated into the film or sound recording. As with photographs and sound recordings Torno (1981(b): 39) suggests that the author of a cinematographic work should be the person responsible for the arrangements undertaken for the making of the cinematographic work. To ensure that new technologies such as videotapes and videodiscs are clearly protected, Torno (1981(b): 29) recommends that either "process analogous to cinematography" or "cinematography" be statutorily defined to include any means by which the effect of motion pictures is produced.

Commissioned Works. Keyes and Brunet (1977: 71) had recommended the retention of the principle that ownership of the copyright is vested in either the employer or the person commissioning the work, depending on the particular circumstances. However, Torno (1981(b): 50, 57) has proposed that the principle of the author being first owner of copyright should always be paramount, and he recommends that,

without any agreement to the contrary, the author of a work will be the initial owner of the copyright therein. This would mean that, if a school board wished to secure copyright in a work prepared by an employee, the board would have to contract with the employee.

Infringement

The recommendations for change in the provisions dealing with infringement seek more to clarify the intent of the current Act than to propose new directions. In the current Act the creator's proprietary rights in a work are not absolute for the social value of copyright is recognized. This same view is held by several writers who have proposed changes in copyright legislation. As Magnusson and Nabhan (1981: 3) explain:

> The creator creates in the context of society, drawing from it for inspiration and knowledge necessary to the creative process. The creator expressly reaches out to society through his work, and through publication he intends that society use his work. The protection of the creator's interest cannot be absolute and it must face, like all other values protected in our society, possible conflicts with other important protected interests and values.

Public Performance. Magnusson and Nabhan suggest that the new Act should expressly sanction certain uses which could otherwise be construed as infringement of copyright. The exemptions which they recommend relevant to educational use revolve around the issue of public performance both live and recorded. The exemption would permit copyright material to be used for non-profit educational activities although a fee could be charged to cover expenses. Such activities could be conducted by any organization or individual providing the activities were strictly educational and in no way recreational. The

performers would have to be students and/or instructors and the audience could be composed of teachers, students, school officials, resource people and parents. The performance could be given in any premises where the educational activities are likely to occur, but it would have to be given in a face-to-face context only; no broadcast would be permitted apart from broadcast within the same building or on the same campus.

Broadcast. Magnusson and Nabhan do not support any exemption for educational broadcasts or diffusion. Nor do they envisage permitting recording from broadcasts or diffusion for librarying purposes. They suggest, however, that broadcasters may wish to negotiate library rights with owners when broadcast rights are negotiated. Similarly, they do not believe ephemeral recording rights from a broadcast and for a time certain should be conferred even on educators. They suggest that off-air taping rights could be negotiated for a nominal fee and they recommend the formation of collectives. The only original recording of copyright works which they would support would be recording for examination purposes.

These exemptions, which apply to all works protected by copyright, derive from Magnusson and Nabhan's assumption (1981: 15) that:

> Where authorized copyright material is distributed to educational institutions, the type of use by those institutions authorized by the proposed exemption can reasonably be viewed as implicit in the original authorization for such distribution of the copyright material and for which the copyright owner has been compensated in the royalties collected for the authorization to produce and sell those copies.

Fair Use. This same assumption also supports the doctrine of fair dealing which, under the current Act, provides a defence when a

prima facie case has been established that a substantial part of a work has been copied. While Keyes and Brunet (1977: 149) recommend the retention of the doctrine as presently expressed, Torno (1981(a): 72) recommends simplifying this doctrine to one of fair use where a finding of fair dealing would be tantamount to a finding of no infringement rather than a finding of infringement to be excused. He would define fair use as (1981(a): 87):

> that use of a protected work that does not deprive the owner of the copyright in such work of an appropriately expected economic reward. In determining whether the use made of a work in a particular case deprives the owner of the copyright in the work of such a reward, account should be taken first of the nature of the copyright work and then of the purpose, character, and extent of the use.

Licenses and Levies. Torno (1981(a): 88) also recommends a levy on blank audio-video taping to legitimize all home taping for personal use, and a blanket license or an equipment levy to legitimize photocopying. If such levies were imposed, authors would have to form collectives for the receipt and disbursement of revenues.

Remedies

As Keyes and Brunet (1977: 185-7) believe that copyright is a private right that should not be enforced by the government but rather by those who have a legal interest in obtaining redress for their infringed rights, they have suggested that no summary remedies be provided in any new Act. To compensate for the abolition of these remedies they do recommend that civil remedies be expanded to include punitive damages, the right of "discovery", and the application of all general remedies to violation of moral rights as well as pecuniary rights.

Copyright Issues of Interest to Educators

The incorporation of these recommendations into a new Act could help to clarify current ambiguities and inconsistencies and they may eliminate the existing inequities. They could also provide a more equitable balance between the needs of the consumers and the desires of the creators and would better meet the needs of contemporary society.

Although the implications which the current copyright legislation and the proposed changes have for education are quite far ranging, it is not apparent that educators really appreciate the problems which could emerge when copyright law is infringed. From this review of the literature, six copyright issues which could impinge on education were isolated. These include the doctrine of fair dealing, ephemeral recording for educational purposes, protection of works recorded on videotape, public performances in the furtherance of an educational objective, protection for corporate owners of copyright, and photocopying for educational purposes.

This study which attempts to assess educators' knowledge of and views on copyright may provide some insights which could be beneficial to those involved in revising Canadian copyright laws. The net effect of this would be the development of just legislation which would gain general acceptance.

Summary

The overview of the literature reveals that Canadian copyright law is patterned on the British model and that it has reciprocity with foreign statutes through two international conventions.

Copyright is actually a form of property - intellectual property. It allows an author to control his/her creation. While copyright gives protection to the mode of expression, it does not protect the ideas or theme expressed. In Canada, copyright protection is accorded to any created work and no formal registration is required. The social value of copyright lies not only in its efforts to ensure a fair return to an author but also in its attempt to stimulate artistic creativity for the public good.

For a work to be protected by copyright, it must be original in expression, permanent in form, and classifiable as literary, dramatic, musical, or artistic. The term of protection is for a time certain. The usual term is the life of the author and fifty years after his death, but for photographs, sound recordings, and government publications the term is only fifty years. Normally, the author is considered the first owner of the copyright. Two important exceptions to this general principle occur when the author is either under a contract of service or has been commissioned. Although the owner may, under contract, assign the right either wholly or partially, the author retains the right to restrain any distortion of the work which would be prejudicial to his/her reputation.

Since an employer is responsible for any tort committed by an employee, an employer would be held liable for any infringement of copyright committed by an employee. An infringement occurs when any person assumes rights which belong to the owner such as conversion and public performance. However, schools are exempt from a charge of infringement if public performance is in the furtherance of an

educational objective, if short passages are published for use of schools, or if a reading or recitation of an extract is given in public. Moreover, fair dealing permits copying for the purpose of private study, research, criticism, review, or newspaper summary. When a claim of infringement is upheld, civil or summary remedies may be applied.

As the current copyright legislation does not adequately meet the needs of contemporary society, consideration is being given to revising this statute. Recommendations for revisions which are of particular interest to educators include establishment of a specific term when the original owner of the copyright is a corporation; extending to photographs the same term of protection as other artistic works; regarding the composer of the photograph and the producer of the audio and video recordings as authors; elimination of certain restrictions on public performance in furtherance of an educational objective; simplification of doctrine of fair dealing to one of fair use; establishment of collectives to regularize reproduction; and the restriction of remedies for infringement to only civil remedies. The aim of recommendations for revision is to provide an equitable balance between the interests of both consumers and creators and thereby ensure the maximum benefits for all of society.

Chapter III

Research Procedures

Introduction

In this chapter the research undertaken for this study is described. Senior educational administrators, superintendents of school divisions and counties, were asked to respond to a questionnaire which was designed to test their knowledge of Canadian copyright legislation and to solicit their opinions on several copyright issues which impact on educational practices. As the opinions of experts can significantly influence future development, the opinions expressed by these educators could be of considerable interest to those responsible for drafting the new Canadian Copyright Act. The research procedures followed in this study are reported under the following headings: (a) the sample, (b) the instrument, (c) procedure, (d) collection of the data, (e) treatment of data, and (f) recording of data.

The Sample

The Nature of the Sample. The nature of the population from which the sample was drawn was determined by identifying individuals who were likely to have the necessary expertise to provide informed responses. Individuals selected to participate in the study would, therefore, have to meet the following criteria:

1. must be actively involved in education in Alberta,
2. must be an executive officer who is responsible for the actions of all educators within the school jurisdiction, and
3. must superintend a school jurisdiction which is relatively large but not so large as to have quick and easy access to expert legal opinion.

This meant that the stratified population for the study was comprised of superintendents of Alberta school divisions and counties. School districts were excluded because they are either relatively small school systems or exceedingly large ones such as the major urban jurisdictions. School districts would, therefore, not conform to the criteria given above.

Selection of the Sample. The List of Alberta School Jurisdictions prepared by the Student Records and Computer Services Branch of Alberta Education provided the names of thirty county superintendents and twenty-eight school division superintendents. To ensure a high level of participation, attempts were made to establish contact with these superintendents by telephone. When contact was made, each superintendent was asked if he/she would participate. A copy of the telephone message used with all respondents is included in Appendix A. Attempts to contact the superintendents were made according to the order given in the List of Alberta School Jurisdictions. The process continued until thirty superintendents who had been contacted had agreed to participate in the survey. A sample of thirty was large enough to allow statistical analysis to be performed, and it also represented a substantial proportion of the population, approximately fifty-two percent. Table 1 shows the relationship between the population and the sample. A copy of the questionnaire together with a covering letter was then forwarded to each participant. Copies of the questionnaire and the covering letter are provided in Appendix B.

The Instrument

The Design. A questionnaire consisting of two sections was developed; Section A contains four items which provide demographic

Table 1

Relationship Between Population and Sample

Type of Jurisdiction	Population	Sample	
		Number	Percent
School Division	28	10	33
County	30	20	67
Totals	58	30	100

information, and Section B contains five case presentations which were composed to illustrate particular copyright problems within an educational milieu. The case description technique was employed so that all the essential information could be presented in a simple, yet interesting, manner.

Case #1 illustrates the application of the doctrine of fair dealing.

Case #2 raises the issue of ephemeral recording for educational purposes.

Case #3 highlights the current ambiguity over the degree of protection accorded to works recorded on videotape.

Case #4 raises questions concerning public performance in the furtherance of an educational objective.

Case #5 describes dilemmas involving term of protection for corporate bodies and photocopying for educational purposes.

The respondents were asked to study each case, and then to answer the questions which pertained to the case. The multiple choice format was used for all questions in this section. In each case description, some questions (the first one or two) tested the respondent's knowledge of current copyright legislation, and the other questions (the last one or two) required the respondent to express his/her opinion on the particular issue.

For ease of identification of returned questionnaires, each questionnaire carried a code number. Respondents who wished to receive the findings of the survey were asked to provide their names and addresses.

Procedure. The first draft of the questionnaire was administered to six school administrators from a school jurisdiction which did not

participate in the survey. These administrators were asked to report any difficulties they may have had in interpreting any of the questions or the instructions. Only minor changes were recommended by this group. The questionnaire was then revised before being forwarded to the superintendents. By the time the deadline date had passed, twenty-six of the thirty superintendents had completed and returned the questionnaire. A reminder telephone call was made to the remaining four, and three of these responses were subsequently received. Only one questionnaire was not returned. The personal contact made by telephone prior to sending the questionnaire was well received by respondents and may have contributed to the high level of return of responses. A letter of appreciation for co-operating in this study was sent to all respondents. A copy of this letter is provided in Appendix C.

Collection of Data

As the questionnaires were returned, the code number on each questionnaire was checked against the master list of volunteers in order to maintain an accurate record of the questionnaires returned. The questionnaires were then checked for completeness and all were found to be usable although four were not entirely complete, with one to four responses being omitted on each of these incomplete questionnaires. Table 2 provides a summary of the questionnaires sent and returned.

Treatment of Data

The questionnaire was prepared in such a way that numerical responses were given to all items, including even the opinion questions in Section B. Consequently, the only item which required treatment before the data were usable for analysis was Item C in Section A. As

Table 2

Summary of Questionnaire Receipts

Categories	Number	Percent
Questionnaires Sent	30	100
Questionnaires Returned	29	97
Questionnaires Not Returned	1	3
Questionnaires Returned Complete	25	83
Questionnaires Returned Incomplete	4	17

it was anticipated that there would be a wide range in the number of educational personnel supervised, this question was left open ended and division into classes did not occur until the responses were given and examined. Numerical responses were then assigned to each class.

Although respondents were asked to provide a brief explanation if they were unable to answer any question, none did so. However, some did include notations which qualified the numerical responses they gave. In all of these cases, the qualifying comments were not taken into account and only the numerical responses given were used. A summary of the responses received is given in Table 3.

Recording of Data

The data thus collected and treated were recorded on a twenty-column data sheet. Identification numbers were listed vertically and all other data were recorded horizontally. The data were then readily available for analysis.

Summary

The sample was drawn from a stratified population comprised of superintendents from Alberta school divisions and counties. Thirty of these superintendents who were contacted by telephone agreed to participate in the survey. Before the questionnaire was mailed to the superintendents, it was field tested and subsequently modified. The two-part questionnaire was designed to gather demographic information and information on the respondents' knowledge of and opinion on specific copyright issues. Responses were received from twenty-nine superintendents, and even though some of the questionnaires were incomplete, they were all usable. To facilitate ease of analysis, the questionnaire was designed for the provision of numerical responses to all items. When

Table 3

Summary of Response Receipts

Categories	Number	Percent
Total Number of Possible Responses on Questionnaires Returned	580	100
Number of Responses Provided	570	98
Number of Responses Omitted	10	2

collected, the data were recorded on a twenty-column data sheet so that they were readily available for analysis.

Chapter IV

Research Findings

In this chapter the research findings are reported in two sections. The first section presents the results of the survey in the form of frequency distributions and the second section contains a comparative analysis of the data.

Frequency Distributions

This section is divided into two subsections with the demographic data being presented in the first subsection and the responses to the copyright questions being given in the second.

Demographic Data

Description of the Population. A detailed description of the population was given in Chapter III. Of the thirty superintendents who agreed to participate in the study, twenty-nine (ninety-seven percent) returned the completed questionnaire. The four items of personal data which were requested were highest academic qualification, years of experience, size of educational staff supervised, and demonstrated interest in copyright legislation, the assumption being made that those who had attempted to extend their knowledge of copyright law during the last five years had demonstrated interest in this topic.

Academic Qualifications. In Table 4 the frequency distribution according to academic qualifications is shown. The majority of the respondents (sixty-nine percent) had at least one graduate degree; sixty-two percent of the total group held a Master's Degree and seven percent held a Doctorate. One person reported holding only a Bachelor Degree and five other people (seventeen percent) reported having courses beyond the Bachelor Degree. Three respondents (ten percent) indicated

Table 4

Frequency Distribution by Academic Qualifications

Academic Classes	Frequency Distribution	Relative Frequency Distribution
Bachelor's Degree	1	.04
Bachelor's Degree plus additional courses	5	.17
Master's Degree	18	.62
Doctorate	2	.07
Other	3	.10
Totals	29	1.00

that they possessed qualifications other than those listed in the four given categories. These were not specified.

Years of Experience. Most of the respondents, who were senior administrators in their jurisdictions, had considerable experience as educators. The majority (fifty-nine percent) had twenty-one years or more experience in education (see Table 5). Ten (thirty-four percent) had sixteen to twenty years of experience and only two (seven percent) had less than fifteen years experience.

Size of Educational Staff Supervised. As had been anticipated, the open-ended question did reveal that there was a wide range in the number of educational personnel supervised. To prepare the data for analysis, the raw data were rank ordered, and then collapsed into five classes with multiples of one hundred assigned to each class. These classes were numbered from one to five.

As can be seen in Table 6, most of the superintendents, nineteen (sixty-five percent), were responsible for 100 to 199 educational personnel. Only five (seventeen percent) supervised less than 100 educators and again only five supervised more than 299 professional staff. Of these five, two (seven percent), directed 200 to 299 professionals, one (four percent) exercised surveillance over 300 to 399 educators, and two others managed jurisdictions employing over 400 educational personnel.

Demonstrated Interest in Copyright Legislation. Only nine respondents (thirty-one percent) demonstrated an interest in copyright legislation by indicating that they had endeavoured to extend their knowledge of Canadian Copyright Law by either self study or attending workshops, seminars, or courses. The majority (sixty-nine percent) reported they

Table 5

Frequency Distribution by Years of Experience

Experience Classes in Years	Frequency Distribution	Relative Frequency Distribution
1 - 5	0	.00
6 - 10	0	.00
11 - 15	2	.07
16 - 20	10	.34
21 +	17	.59
Totals	29	1.00

Table 6

Frequency Distribution by Size of Staff

Size Classes	Frequency Distribution	Relative Frequency Distribution
0 - 99	5	.17
100 - 199	19	.65
200 - 299	2	.07
300 - 399	1	.04
400 +	2	.07
Total	29	1.00

had not endeavoured to extend their knowledge of copyright legislation (see Table 7).

Summary. In general the superintendents who responded had high academic qualifications with sixty-nine percent having at least one graduate degree. They also had considerable experience which, for fifty-nine percent of the respondents, exceeded twenty-one years. There was a wide range in the number of educational personnel supervised but the majority (sixty-five percent) were responsible for 100 to 199 professional staff. Most respondents (sixty-nine percent) indicated that, in recent years, they had not endeavoured to extend their understanding of copyright legislation.

Substantive Data

In this section the data collected on Section B of the instrument are presented case by case. The purpose of Section B was to test the respondents' knowledge of and opinions on copyright matters which are particularly relevant to educators.

Case #1. Doctrine of Fair Dealing. The relative frequency distribution for each question based on this case is given in Table 8. Most of the respondents (sixty-one percent) selected the correct response to Item A, that is, that the action would be brought against the employer, the Laissez Faire School Division Board. None thought the action would be brought against the principal, but thirty-nine percent of the respondents believed the action would be brought against the teacher. These respondents are apparently unaware of one of the basic tenets of the Law of Torts - an employer is responsible for the action of his/her employee.

Table 7

Frequency Distribution by Demonstrated Interest in Copyright Law

Interest Classes	Frequency Distribution	Relative Frequency Distribution
Those who have endeavoured to extend their knowledge	9	.31
Those who have not endeavoured to extend their knowledge	20	.69
Totals	29	1.00

Table 8

Relative Frequency Distribution for Case #1

Question		Frequency Distribution	Relative Frequency Distribution
Item A	1	11	.39
	2	0	.00
	3	17	.61
Totals		28	1.00
Item B	1	8	.28
	2	10	.34
	3	11	.38
Totals		29	1.00
Item C	1	16	.55
	2	13	.45
Totals		29	1.00

In Item B the best response, Number 3, was selected by only thirty-eight percent of the respondents. Thirty-four percent gave Number 2 as their response and twenty-eight percent chose Number 1. Thus most of the respondents (sixty-two percent) did not give the best answer suggested by case law on copyright which is that infringement will be determined by the quality rather than the quantity of the material copied.

For Item C, which asked the respondents to express their opinion on the desirability of the introduction of copyright collectives, the responses were fairly evenly split. Only a slight majority, sixteen (fifty-five percent), were in favour of the establishment of collectives to regulate the utilization of works protected by copyright. Thirteen respondents (forty-five percent) were opposed to this suggestion.

Case #2. Ephemeral Recording for Educational Purposes. In Table 9 the relative frequency distribution for each question pertinent to this case is shown. All the respondents to Item A (a) agreed that videotaping for private study purposes is permissible. As such copying is allowed under Section 17 of the Canadian Copyright Act, all respondents gave the correct answer to the question.

Most of the respondents, twenty-two (seventy-six percent), indicated in Item A (b) that the C.B.C. would not be successful in any legal action brought against the school board for allowing a teacher to show copied video materials to his students. Only seven superintendents (twenty-four percent) thought the C.B.C. would be successful in such an action. The majority of superintendents would probably be correct in assuming the C.B.C. would not be successful because, although the owner of the copyright has the sole right to perform the work in public,

Table 9

Relative Frequency Distribution for Case #2

Question		Frequency Distribution	Relative Frequency Distribution
Item A (a)	1	0	0
	2	29	1.00
Totals		29	1.00
Item A (b)	1	7	.24
	2	22	.76
Totals		29	1.00
Item B	1	27	.93
	2	2	.07
Totals		29	1.00

the court would more than likely rule that this performance was not a public performance but a quasi-domestic performance.

In Item B the respondents were again asked for their opinion and the vast majority, twenty-seven (ninety-three percent), said that educators should have the right to record and play back in class audio and video programmes which they think would be beneficial for students. Only two (seven percent) were opposed to this suggestion.

Case #3. Protection of Original Works Recorded on Videotape. The relative frequency distribution for each question relevant to this case is given in Table 10. To Item A, six (twenty-four percent) gave an affirmative response and twenty-two (seventy-six percent) gave a negative response. At this time, there is no definitive answer to this question since, under the current Act, original works recorded only on videotape and not on film are not specifically protected. Although there is considerable debate over whether or not the courts would extend copyright protection to these works, it is doubtful that they could draw this authority under the existing legislation.

The correct response to Item B was selected by only eight (thirty percent) of the superintendents. Nineteen (seventy percent) did not believe the consultant would have infringed copyright for copying material recorded on film. Such protection is afforded under Section 2 of the current Act.

Both Items C and D solicited opinions from the respondents and divergent opinions were given on these items. For Item C opinion was fairly evenly divided with sixteen (fifty-five percent) saying that productions recorded on videotape should receive copyright protection and thirteen (forty-five percent) of the respondents indicating that

Table 10

Relative Frequency Distribution for Case #3

Question		Frequency Distribution	Relative Frequency Distribution
Item A	1	6	.24
	2	22	.76
Totals		28	1.00
Item B	1	8	.30
	2	19	.70
Totals		27	1.00
Item C	1	16	.55
	2	13	.45
Totals		29	1.00
Item D	1	24	.83
	2	5	.17
Totals		29	1.00

they were opposed to such protection. With film, which was the medium in question in Item D, most respondents were in favour of the work receiving copyright protection. Twenty-four (eighty-three percent) supported this view and five (seventeen percent) were opposed.

Case #4. Public Performance in the Furtherance of an Educational Objective. Table 11 provides the relative frequency distribution for each question based on this case. On Item A which asked about the payment of compensation for a performance given for an educational purpose, seventeen (fifty-nine percent) said that compensation would have to be paid and twelve (forty-one percent) said it would not. These twelve respondents provided the correct response as Section 17 (3) of the Canadian Copyright Act allows this exemption.

For Item B a slight majority, sixteen (fifty-seven percent) of the respondents believed that in this case the owners of the copyright could obtain an injunction and twelve (forty-three percent) gave a negative response to this question. This action could indeed be brought against the school jurisdiction as it is not expressly prohibited in the Act.

In Item C considerable support was given by this group to the notion of permitting public performances on school premises when no admission fee is charged and no financial benefit is obtained. Twenty-three (seventy-nine percent) were in favour of such performances being allowed without the payment of royalties. Only six (twenty-one percent) opposed this suggestion.

Case #5. Term of Protection and Photocopying for Educational Purposes. The relative frequency distribution for each question arising from Case #5 is given in Table 12. Most of the respondents, sixteen (sixty-one percent), selected the correct response to Item A when they

Table 11

Relative Frequency Distribution for Case #4

Question		Frequency Distribution	Relative Frequency Distribution
Item A	1	17	.59
	2	12	.41
Totals		29	1.00
Item B	1	16	.57
	2	12	.43
Totals		28	1.00
Item C	1	23	.79
	2	6	.21
Totals		29	1.00

Table 12

Relative Frequency Distribution for Case #5

Question		Frequency Distribution	Relative Frequency Distribution
Item A	1	8	.31
	2	1	.04
	3	1	.04
	4	16	.61
Totals		26	1.00
Item B	1	12	.43
	2	7	.25
	3	5	.18
	4	0	0
	5	2	.07
	6	2	.07
Totals		28	1.00
Item C	1	25	.89
	2	3	.11
Totals		28	1.00

stated that the term of protection, when the owner of the copyright is a corporation, is unspecified under the current Act. Eight (thirty-one percent) believed the term of protection was twenty years; only one respondent chose fifty years; and one said the life of the author and a period of fifty years after his death.

Opinion was divided on Item B which asked about the term of protection afforded to a corporation which is the owner of copyright. Twelve (forty-three percent) favoured ten years or under; seven (twenty-five percent) wanted the term of protection to extend from eleven to twenty years; five (eight percent) thought the term should run from twenty-one to thirty years; no one chose a term from thirty-one to forty years; two (seven percent) preferred an extended term of protection from forty-one to fifty years; and two (seven percent) offered additional suggestions. While one of these respondents wanted the term of protection to be for only five years, but renewable, the other wanted unlimited protection.

The vast majority of respondents to Item C, twenty-five (eighty-nine percent), were in favour of teachers being allowed to copy and distribute materials to students providing the teacher did not profit from the distribution of the copied materials. Only three (eleven percent) were opposed to this concept.

Summary. Even though twenty superintendents stated they had not actively tried to extend their knowledge of Canadian copyright legislation compared to nine who indicated they had endeavoured to extend their knowledge of copyright law, the mean score for correct responses on the nine factual questions in Part B of the questionnaire was sixty percent (see Table 13). They did, therefore, demonstrate a reasonable

Table 13

Summary of Responses to Factual Questions

Case	Item	Correct Responses %	Incorrect Responses %
1	A	61%	39%
	B	38%	62%
2	A(a)	100%	0%
	A(b)	76%	24%
3	A	76%	24%
	B	30%	70%
4	A	41%	59%
	B	57%	43%
5	A	61%	39%
Mean		60%	40%

understanding of some of the basic principles of copyright legislation and case law as it would apply in the educational milieu.

In responding to the seven opinion questions, the superintendents generally indicated strong support for those positions concerning the application of copyright law which would place only minimal restrictions on school personnel as users of copyright materials. Table 14 presents a summary of the responses to the opinion questions. Ninety-three percent of the respondents believed educators should have the right to record and play back in class audio and video programmes which they think would be beneficial for students. While eighty-three percent of the respondents wanted productions recorded on film to be protected, only fifty-five percent wanted this same protection to be accorded to works recorded on videotape. When no entrance fee is charged and no one obtains a financial benefit in association with the performance, seventy-nine percent of the respondents were in favour of public performances being allowed on school premises without the payment of royalties. A relatively short term of protection of twenty years or under when the owner of the copyright is a corporation was suggested by sixty-eight percent of the educators responding, and eighty-nine percent wanted a teacher to have the right to make copies of protected works for distribution to students providing the teacher does not profit from the distribution of such materials. Only a slight majority (fifty-five percent) supported the establishment of collectives as a means of regularizing the reproduction of protected works.

Statistical Technique

In this section responses to the opinion questions were analysed to ascertain whether or not any significant differences could be

Table 14

Summary of Responses to Opinion Questions

Case	Item	Yes %	No %	Other %
1	C	55%	45%	
2	B	93%	7%	
3	C	55%	45%	
	D	83%	17%	
4	C	79%	21%	
5	B			68% - 20 year & under 25% - 21 years & over 7% - other
	C	89%	11%	

determined between the independent variable categories provided by Part A of the questionnaire and the dependent variable categories found in the opinion question(s) pertinent to each case.

The statistical test most appropriate for the analysis of the enumerative data available from this study was the nonparametric chi-square test. The only scale of measurement employed for the purpose of this analysis was the nominal scale. The value of chi-square was calculated by using the chi-square formula which incorporates the Yates' correction for continuity.

$$\chi^2 = \frac{N\left(\left|AD - BC\right| - \frac{N}{2}\right)}{(A + B)(C + D)(A + C)(B + D)}$$

In this study the 0.05 level of significance was selected as the rejection level. If the probability of the chi-square was 0.05 or less, the difference in the frequency of responses was deemed to be significant.

Hypothesis 1

There is no significant difference between the academic qualifications of superintendents and their opinions on copyright issues.

Findings

In order to test this hypothesis and thereby determine whether or not there is a relationship between opinions on copyright issues and academic qualifications, the frequency distribution for the independent variable was examined (Table 4). This frequency distribution showed that most of the responses were grouped in category 3, Master's Degree (sixty-two percent). For the purpose of this study, it was decided that the number of categories in this variable should be collapsed into two to distinguish only between those who have at least a Master's Degree and those who have less than a Master's Degree. Table 15 shows the

Table 15

Frequency Distribution by Academic Qualifications

Academic Classes	Code	Frequency Distribution	Relative Frequency Distribution
Less than a Master's Degree	1	8	.28
Master's Degree or More	2	21	.72
Totals		29	1.00

frequency distribution when this variable was recoded. When the data were arranged in this manner, the differences in the dependent variable between both groups could be tested.

Case #1. Doctrine of Fair Dealing: Item C. Inspection of data pertinent to this question revealed that twenty-nine superintendents responded to this question. Of those who held less than a Master's Degree, three (ten percent) agreed that collectives should be introduced and five (seventeen percent) disagreed with this proposal. Thirteen (forty-five percent) with a Master's Degree or more endorsed the proposal and eight (twenty-eight percent) were opposed (see Table 16).

When the data were analysed, a chi-square value of 0.58 with df 1 was calculated, but this value was not sufficiently high to be significant at the 0.05 level. The null hypothesis was, therefore, accepted and it was concluded that there was no significant difference between academic qualifications and opinions on the establishment of collectives.

Case #2. Ephemeral Recording for Educational Purposes: Item B. An examination of the data presented in Table 17 revealed that both groups strongly agreed with the suggestion that educators should have the right to record and play back in class audio and video programmes which they think would be beneficial for students. The entire group with less than a Master's Degree supported this position. In addition to these eight (twenty-seven percent), nineteen (sixty-six percent) in the other group agreed with this suggestion. Only two (seven percent) from this second group disagreed with this notion.

The chi-square value obtained from this analysis was exceedingly small (only .007 with df 1) and was certainly not significant at the 0.05 level. Consequently, the null hypothesis was accepted and no

Table 16

Responses to Item C. #1

Academic Qualifications	Yes	No	Totals
Less than a Master's Degree	3	5	8
Master's Degree or More	13	8	21
Totals	16	13	29

$\chi^2 = 0.58$ df 1

Table 17

Responses to Item B. #2

Academic Qualifications	Yes	No	Totals
Less than a Master's Degree	8	-	8
Master's Degree or more	19	2	21
Totals	27	2	29

$\chi^2 = 0.007$ df 1

significance between academic qualifications and views on ephemeral recording for educational purposes could be demonstrated.

Case #3. Protection of Original Works Recorded on Videotape: Item C. The analysis of the data relevant to this question is given in Table 18 (a). This table shows that twenty-nine superintendents responded to this item and three of the superintendents (ten percent) in the less-than-a-Master's-Degree category agreed that productions recorded on videotape should receive copyright protection while five (seventeen percent) in this category were opposed to this type of protection. In the second category, eleven (thirty-eight percent) were in agreement with this proposal and ten (thirty-five percent) were opposed.

When the chi-square value was computed, it was found to be 0.09 with df 1 which is substantially less than the 3.84 required for significance at the 0.05 level. Thus the null hypothesis had to be accepted. No significant difference between academic qualifications and the opinions expressed on according copyright protection to productions recorded on videotape could be established.

Item D. This analysis given in Table 18 (b) showed that twenty-nine responses were received for this item. Seven (twenty-four percent) from the less-than-a-Master's-Degree category agreed that productions recorded on film should receive copyright protection. Only one (three percent) in this category disagreed with this suggestion. In the Master's-Degree-or-more category, seventeen (fifty-nine percent) positive responses were received and four (fourteen percent) negative responses were given.

When chi-square was computed, it was found to be 0.02 with df 1 which was substantially less than that required for significance at the

Table 18 (a)

Responses to Item C. #3

Academic Qualifications	Yes	No	Totals
Less than a Master's Degree	3	5	8
Master's Degree or more	11	10	21
Totals	14	15	29

$\chi^2 = 0.09$ df 1

Table 18 (b)

Responses to Item D. #3

Academic Qualifications	Yes	No	Totals
Less than a Master's Degree	7	1	8
Master's Degree or more	17	4	21
Totals	24	5	29

$\chi^2 = 0.02$ df 1

0.05 level. Consequently, the null hypothesis had to be accepted. No significant difference between academic qualifications and the respondents' opinion on works recorded on film could be established.

Case #4. Public Performance in Furtherance of an Educational Objective: Item C. An examination of this data revealed in Table 19 that twenty-nine superintendents responded to this question. Seven (twenty-four percent) from the group with less than a Master's Degree supported the notion that a public performance on school premises where no entrance fee is charged and where no one obtains a financial benefit in association with the performance should be permitted without payment of royalties. Only one respondent (three percent) was opposed to this suggestion. In the group with a Master's Degree or more, sixteen (fifty-five percent) favoured this suggestion and five (eighteen percent) were opposed.

Computation involving these data provided a chi-square value of 0.03 with df 1. This is below the requirement for significance at the 0.05 level which meant the null hypothesis was upheld. The conclusion reached was that there was no significant difference between the academic qualifications of the respondents and their opinion of the desirability of permitting public performances on school premises without payment of royalties.

Case #5. Term of Protection and Photocopying for Educational Purposes: Item B. When the frequency distribution as shown in Table 12 was examined, it indicated that twelve superintendents (forty-three percent) wanted only short term protection, that is ten years and under, when a corporation is the owner of the copyright. Seven (twenty-five percent) suggested a term of protection from eleven to twenty years.

Table 19

Responses to Item C. #4

Academic Qualifications	Yes	No	Totals
Less than a Master's Degree	7	1	8
Master's Degree or more	16	5	21
Totals	23	6	29

$\chi^2 = 0.03$ with df 1

Only seven (twenty-five percent) proposed longer terms of protection. Of the two respondents who offered their own suggestions, one wanted unlimited protection and the other proposed a five-year term which could be renewed. As the majority of the superintendents suggested relatively short term protection, it was decided to dichotomize and to consider only two sub-groups in further calculations. When this variable was recoded, the two categories selected were ten-years-and-under and eleven-years-and-over. Of the two respondents offering their own suggestions, one was placed in each category since one wanted five years renewable and the other unlimited protection. The recoded frequency distribution is shown in Table 20:

Inspection of the data presented in Table 21 (a) revealed that twenty-eight respondents completed this item. Four respondents (fourteen percent) who held less than a Master's Degree preferred a short term of protection when a corporation is the owner of copyright and four (fourteen percent) in this group favoured a longer term of protection. Nine (thirty-two percent) of those who possessed a Master's Degree or additional qualifications preferred a short term, and eleven (forty percent) of these respondents suggested a longer term.

The application of the chi-square formula to this data produced a chi-square value of 0.03 with df 1 which is non-significant at the 0.05 level. Therefore, the null hypothesis was accepted and no significant difference between academic qualifications and the respondents' opinions on term of protection could be established.

Table 20

Frequency Distribution by Term of Protection

Term	Code	Frequency Distribution	Relative Frequency Distribution
Ten Years & Under	1	13	.46
Eleven Years & Over	2	15	.54
Totals		28	1.00

Table 21 (a)

Responses to Item B. #5

Academic Qualifications	Short Term	Long Term	Totals
Less than a Master's Degree	4	4	8
Master's Degree or more	9	11	20
Totals	13	15	28

$\chi^2 = 0.03$ with df 1

Table 21 (b)

Responses to Item C. #5

Academic Qualifications	Yes	No	Totals
Less than a Master's Degree	6	2	8
Master's Degree or more	19	1	20
Totals	25	3	28

$\chi^2 = 0.76$ with df 1

Item C. Data relevant to this question are given in Table 21 (b). An analysis of these data revealed that twenty-eight responses were given to this question. Six respondents (twenty-two percent) with less than a Master's Degree wanted teachers to have the right to photocopy and distribute copyright materials to their students. Only two respondents (seven percent) from this group opposed this suggestion. In the group with the higher academic qualifications, nineteen (sixty-eight percent) wanted teachers to have this right to photocopy and one (three percent) disagreed with this suggestion.

When the chi-square value was determined and found to be 0.76 with df 1, this value was non-significant since the value is lower than the 3.84 required for significance at the 0.05 level. As a result of this analysis, the null hypothesis was accepted and the conclusion reached was that there was no significant difference between academic qualifications and the respondent's opinion on teachers' right to photocopy materials for distribution to students.

Hypothesis 2

There is no significant difference between the experience of school superintendents and their opinions on copyright issues.

Findings

When the frequency distribution for the independent variable (experience) presented in Table 5 was examined, it revealed that most superintendents had considerable experience. Only two (seven percent) had less than sixteen years experience. For the purpose of this analysis, the categories were recoded so that only two populations, those with twenty years or less experience and those with more than twenty-one years, were considered. Twelve respondents

(forty-one percent) were assigned to the twenty-years-and-less category and seventeen respondents (fifty-nine percent) fell in the twenty-one-years-and-over category as shown in Table 22.

Case #1. Doctrine of Fair Dealing: Item C. This analysis showed that all twenty-nine respondents answered this question. The data presented in Table 23 indicate six (twenty-one percent) from category 1 agreed with the proposal to establish collectives. However, the same number also disagreed with this suggestion. In category 2, ten (thirty-four percent) supported collectives and seven (twenty-four percent) opposed them.

The chi-square value calculated from these data was 0.008. As this value was not significant at the 0.05 level, the null hypothesis was accepted. The conclusion reached was that there was no significant difference between years of experience and the respondents' opinions on the formation of collectives.

Case #2. Ephemeral Recording for Educational Purposes: Item B. Table 24 shows that twenty-nine superintendents responded to this question. When the data were examined, it was found that eleven respondents (thirty-eight percent) in the twenty-years-and-less group agreed that educators should have the right to record and play back in class audio and video programmes which could be beneficial for their students. Only one respondent (three percent) in this group expressed disagreement on this issue. In the twenty-one-years-of-experience-and-more group, sixteen respondents (fifty-six percent) agreed with this suggestion and only one (three percent) was opposed.

Table 22

Frequency Distribution by Experience

Years of Experience	Code	Frequency Distribution	Relative Frequency Distribution
Twenty years and less	1	12	.41
Twenty-one years and more	2	17	.59
Totals		29	1.00

Table 23

Responses to Item C. #1

Years of Experience	Yes	No	Totals
Twenty years and less	6	6	12
Twenty-one years and more	10	7	17
Totals	16	13	29

$\chi^2 = 0.008$ with df 1

Table 24

Responses to Item B. #2

Years of Experience	Yes	No	Totals
Twenty years and less	11	1	12
Twenty-one years and more	16	1	17
Totals	27	2	29

$\chi^2 = 0.24$ df 1

The chi-square value of 0.24 with df 1 which was obtained from these data was not significant at the 0.05 level. Therefore, the null hypothesis was accepted and no significant difference between years of experience and the respondents' opinions on ephemeral recording for educational purposes could be ascertained.

Case #3. Protection of Original Works Recorded on Videotape: Item C. An examination of the data given in Table 25 (a) revealed that twenty-nine respondents completed this question. In the twenty-years-and-less category, the population was split evenly with six (twenty-one percent) agreeing and six disagreeing that productions recorded on videotape should receive copyright protection. In the twenty-one years and more category, ten (thirty-four percent) agreed with the idea of extending copyright protection to works recorded in this medium while seven (twenty-four percent) were opposed to this proposal.

When the data were analysed, a chi-square value of 0.01 was obtained. This value was substantially less than the 3.84 required for significance at the 0.05 level. Thus the null hypothesis was accepted and no significant difference between years of experience and the opinions of school superintendents concerning the protection of works recorded on videotape could be shown.

Item D. Inspection of the data relevant to this item revealed that twenty-nine superintendents responded to this question. The majority of the respondents in the twenty-years-and-less group agreed that works recorded on film should be protected. Ten respondents (thirty-five percent) expressed this opinion and only two (seven percent) disagreed. In the second group with experience of at least

Table 25 (a)

Responses to Item C. #3

Years of Experience	Yes	No	Totals
Twenty years and less	6	6	12
Twenty-one years and more	10	7	17
Totals	16	13	29

$\chi^2 = 0.01$ with df 1

Table 25 (b)

Responses to Item D. #3

Years of Experience	Yes	No	Totals
Twenty years and less	10	2	12
Twenty-one years and more	14	3	17
Totals	24	5	29

$\chi^2 = 0.19$ with df 1

twenty-one years, fourteen (forty-eight percent) agreed with this provision and only three (ten percent) opposed it.

When chi-square was computed, it was found to be 0.19 with df 1 which again was substantially lower than that required for significance at the 0.05 level. Consequently, the null hypothesis was accepted. The conclusion reached was that there was no significant difference between years of experience and superintendents' opinions concerning the protection of works recorded on film.

Case #4. Public Performance in Furtherance of an Educational Objective: Item C. When the data pertinent to this item were analysed in Table 26, it was found that twenty-nine responses to this question had been supplied. The group with less experience gave strong support to the proposal that would allow non-payment of royalties for public performances on school premises where no entrance fee is charged and no one obtains a financial benefit. Eleven of these respondents (thirty-eight percent) agreed with this proposal and only one respondent (three percent) gave a negative response. Among the respondents with more experience, there was more support for the negative response. Twelve (forty-two percent) gave an affirmative response and five (seventeen percent) were opposed.

The chi-square value was 1.92. Since this value was not significant at the 0.05 level, the null hypothesis was accepted. No significant difference between years of experience and the opinions of school superintendents on public performance in furtherance of an educational objective could be demonstrated.

Case #5. Term of Protection and Photocopying for Educational Purposes: Item B. In the testing of this hypothesis the recoded

Table 26

Responses to Item C. #4

Years of Experience	Yes	No	Totals
Twenty years and less	11	1	12
Twenty-one years and more	12	5	17
Totals	23	6	29

$\chi^2 = 1.92$ with df 1

frequency distribution for this dependent variable which was employed in the testing of the first hypothesis was utilized again. This frequency distribution is presented in Table 20.

Because only twenty-eight superintendents responded to this question, N, for the purpose of this analysis, was twenty-eight. Seven respondents (twenty-five percent) from the less-experience category favoured short term protection when a corporation is the owner of the copyright. Five of these respondents (eighteen percent) wanted a term of protection over ten years. In the group with more experience, five respondents (eighteen percent) selected a short term of ten years or less and eleven (thirty-nine percent) preferred a longer term (see Table 27 (a)).

Analysis of the data produced a chi-square value of 1.09 with df 1 which was below the value required for significance at the 0.05 level and the null hypothesis was accepted. No significant difference between years of experience and the respondents' views on the appropriate term of protection when a corporation is the owner of copyright was established.

Item C. The analysis revealed that twenty-eight superintendents gave a response to this question. All of the respondents with less experience supported the right of teachers to photocopy and distribute protected materials to students. Twelve (forty-three percent) superintendents gave this response. In the group with more experience, thirteen (forty-six percent) supported this accommodation for teachers, while three (eleven percent) were opposed to it (see Table 27 (b)).

Table 27 (a)

Responses to Item B. #5

Years of Experience	Short Term	Long Term	Totals
Twenty years and under	7	5	12
Twenty-one years and over	5	11	16
Totals	12	16	28

$\chi^2 = 1.09$ with df 1

Table 27 (b)

Responses to Item C. #5

Years of Experience	Yes	No	Totals
Twenty years and under	12	0	12
Twenty-one years and over	13	3	16
Totals	25	3	28

$\chi^2 = 0.95$ with df 1

When the chi-square value was determined at 0.94 with df 1, the value was regarded as non-significant as it is lower than the value required for significance at the 0.05 level. As a consequence, the null hypothesis was accepted, and it was concluded that there was no significant difference between years of experience and the respondents' opinions on teachers' rights to photocopy and distribute protected materials to students.

Hypothesis 3

There is no significant difference between the supervisory responsibilities of superintendents and their opinions on copyright issues.

Findings

Before this hypothesis could be tested the frequency distribution for size of staff was examined (Table 6). To facilitate the test of association with chi-square and to overcome analysis difficulties which could be caused by small frequencies, several categories were combined so that a two by two table could be drawn. In the regrouping, those who supervised one hundred and ninety-nine or less were assigned to category 1 and those who supervised two hundred or more were assigned to category 2. Thus a dichotomy between moderate and large areas of responsibility was established. Table 28 shows the frequency distribition when this variable was recoded.

Case #1. Doctrine of Fair Dealing: Item C. When the data relevant to these variables were analysed, it was found that twenty-nine responses had been received on this item. The division of responses in the first caregory was thirteen (forty-five percent) for, and eleven (thirty-seven percent) against the establishment of collectives. In

Table 28

Frequency Distribution by Size of Staff

Staff Size	Code	Frequency Distribution	Relative Frequency Distribution
199 and under	1	24	.82
200 and over	2	5	.18
Total		29	1.00

the second category the responses were split with three (eleven percent) for, and two (seven percent) against the formation of collectives to regularize the reproduction of protected materials (see Table 29).

The value of chi-square calculated from these data was 0.07 which was well below that required for significance at the 0.05 level. The null hypothesis was accepted and no significance between size of supervisory responsibility and views on the desirability of setting up copyright collectives was observed.

Case #2. Ephemeral Recording for Educational Purposes: Item C. Analysis of the data as presented in Table 30 shows that twenty-nine respondents completed this item. The category 1 respondents strongly agreed with educators having the right to record and play back in class audio and video programmes which might benefit their students. Twenty-two (seventy-six percent) gave an affirmative response and only two (seven percent) opposed this suggestion. All five respondents (seventeen percent) in the second category indicated their approval of this proposal.

The chi-square computed using these data was 0.09 with df 1 which is below the value required for significance at the 0.05 level. The null hypothesis that supervisory responsibility is independent of attitude towards ephemeral recording for educational purposes was accepted.

Case #3. Protection of Original Works Recorded on Videotape: Item C. The data given in Table 31 (a) shows that twenty-nine superintendents responded to this item. In the first category the division between the positive and negative responses was even with twelve

Table 29

Responses to Item C. #1

Size of Staff	Yes	No	Totals
199 or less	13	11	24
200 or more	3	2	5
Totals	16	13	29

$\chi^2 = 0.07$ with df 1

Table 30

Responses to Item C. #2

Size of Staff	Yes	No	Totals
199 or less	22	2	24
200 or more	5	0	5
Totals	27	2	29

$\chi^2 = 0.09$ with df 1

Table 31 (a)

Responses to Item C. #3

Size of Staff	Yes	No	Totals
199 and under	12	12	24
200 and over	4	5	5
Totals	16	17	29

$\chi^2 = 0.006$ with df 1

Table 31 (b)

Responses to Item D. #3

Size of Staff	Yes	No	Totals
199 and under	19	5	24
200 and over	5	0	5
Totals	24	5	29

$\chi^2 = 0.22$ with df 1

(forty-two percent) in each one. In the second category four respondents (fourteen percent) agreed that productions recorded on videotape should be protected and only one (three percent) did not agree.

An analysis of these data produced a chi-square value of 0.006 with df 1 which was not significant at the 0.05 level. Since the null hypothesis was accepted, no significant difference between size of staff supervised and opinions on according protection to works recorded on videotape was determined.

Item D. In Table 31 (b) the data relevant to this question are provided. A total of twenty-nine responses was received for this question. Most of the respondents in category 1 agreed that productions recorded on film should receive copyright protection. Nineteen (sixty-six percent) in this group gave a positive response while five (seventeen percent) provided a negative response. In the second category all five (seventeen percent) of the responses were affirmative.

When the chi-square value was calculated, the value, 0.22 with df 1, was below the value required for significance at the 0.05 level. As a result the null hypothesis was accepted and no significant difference could be established between the extent of supervisor responsibility and opinions on the desirability of protecting works recorded on film.

Case #4. Public Performance in Furtherance of an Educational Objective: Item C. Data relevant to this item are given in Table 32. An analysis of these data revealed that twenty-nine superintendents had responded to this question. In the group with moderate supervisory responsibilities, nineteen (sixty-six percent) supported the view that public performances on school premises should be permitted without

Table 32

Responses to Item C. #4

Size of Staff	Yes	No	Totals
199 and under	19	5	24
200 and over	4	1	5
Totals	23	6	29

$\chi^2 = 0.32$ with df 1

payment of royalties if no entrance fees are charged. Five (seventeen percent) were opposed to this concession being extended to schools. In the group with higher supervisory responsibilities, four respondents (fourteen percent) were supportive of this special provision for schools and one (three percent) was opposed.

When the chi-square was calculated, its value was 0.32 with df 1 which was not significant at the 0.05 level. With the confirmation that there was no significant difference between size of staff supervised and the opinions of this special public performance provision for schools, the null hypothesis was accepted.

Case #5. Term of Protection and Photocopying for Educational Purposes: Item B. The recoded frequency distribution for this independent variable which was developed in Table 33 (a) was used again for the purpose of this analysis.

An examination of these data revealed that twenty-eight superintendents provided responses for this item. Eleven respondents (thirty-nine percent) with moderate supervisory responsibilities favoured a short term of protection when a corporation is the owner of copyright. Twelve other respondents (forty-three percent) from this group preferred a longer term. Two (seven percent) of those with more extensive supervisory responsibilities recommended a short term of ten years or under, and three (eleven percent) suggested a term longer than ten years.

When the data were analysed, a chi-square value of 0.04 with df 1 was obtained. This value was not significant at the 0.05 level of significance and, consequently, the null hypothesis was accepted.

Table 33 (a)

Responses to Item B. #5

Size of Staff	Short Term	Long Term	Totals
199 and under	11	12	23
200 and over	2	3	5
Totals	13	15	28

$\chi^2 = 0.03$ with df 1

Table 33 (b)

Responses to Item C. #5

Size of Staff	Yes	No	Totals
199 and under	20	3	23
200 and over	5	0	5
Totals	25	3	28

$\chi^2 = 0.003$ with df 1

No significant difference between size of staff supervised and preferred term of protection could be established.

Item C. An analysis of these data showed that twenty-eight responses were received for this item. Both categories strongly supported the teachers' right to copy and distribute protected materials to students. Twenty respondents (seventy-one percent) in category 1 approved of this accommodation to the needs of schools. Three (eleven percent) did not favour such an accommodation. The five respondents (eighteen percent) in category 2 all endorsed this position (see Table 33 (b)).

When the chi-square value was calculated, it was 0.003 with df 1. This was not significant at the 0.05 level. Therefore, the null hypothesis was accepted and no significant difference between size of staff supervised and superintendents' opinions on photocopying for educational purposes could be established.

Hypothesis 4

There is no significant difference between the demonstrated interest of superintendents in copyright matters and their opinions on copyright issues.

Findings

The data pertinent to the independent variable, demonstrated interest in copyright matters, were obtained from the superintendents' responses to Item D in Part A of the questionnaire. Those who stated that they had endeavoured to extend their knowledge of Canadian copyright law were deemed to have demonstrated interest in this topic. Those who indicated they had not investigated this topic were recorded as not demonstrating interest in copyright. The interrelationships

between these variables and the dependent attitude variables were examined with the following results.

Case #1. Doctrine of Fair Dealing: Item C. Inspection of the data presented in Table 34 revealed that twenty-nine superintendents responded to this item. In the first category, those with a demonstrated interest in copyright, five respondents (seventeen percent) supported the idea of collectives being established to control reproduction of protected works. Four (fourteen percent) were not prepared to support copyright collectives. Those who had not demonstrated an interest in copyright constituted category 2. In this group, eleven (thirty-eight percent) were supportive of collectives while nine (thirty-one percent) were opposed.

Analysis of these data produced a chi-square value of 0.14 with df 1 which was below the 3.84 value required for significance at the 0.05 level. Since the null hypothesis was accepted, no significance between interest in copyright and views on the desirability of establishing collectives to control unauthorized reproduction could be established.

Case #2. Ephemeral Recording for Educational Purposes: Item B. Examination of the data given in Table 35 revealed that twenty-nine responses had been received for this question. Seven respondents (twenty-four percent) in the first category believed educators should have the right to record and play back in class audio and video programmes which could be beneficial for students. Two other respondents (seven percent) in this category did not think educators should have this special right. The entire population in the second category, twenty (sixty-nine percent), were favourably disposed to teachers having

Table 34

Responses to Item C. #1

Interest in Copyright	Yes	No	Totals
Yes	5	4	9
No	11	9	20
Totals	16	13	29

$\chi^2 = 0.14$ with df 1

Table 35

Responses to Item B. #2

Interest in Copyright	Yes	No	Totals
Yes	7	2	9
No	20	0	20
Totals	27	2	29

$\chi^2 = 1.94$ with df 1

such a right. The chi-square of 1.94 was not significant at the 0.05 level. Thus the null hypothesis stood since no significant difference between the sub-groups was detected.

Case #3. Protection of Original Works Recorded on Videotape: Item C. The data applicable to this question are presented in Table 36 (a). The total number of responses received for this question was twenty-nine. Three respondents (ten percent) from the interested category thought productions recorded on videotape should receive copyright protection. Another six (twenty-one percent) in this group opposed this view. In the uninterested category, thirteen (forty-five percent) wanted works recorded on videotape and seven (twenty-four percent) did not.

The chi-square computed from this data was 1.40 with df 1. This value was not sufficiently high to be significant at the 0.05 level. As the null hypothesis had to be accepted, no significance between interest in copyright and opinions on protection for videotape could be established.

Item D. The data provided in Table 36 (b) show that twenty-nine respondents completed this question. Six respondents (twenty-one percent) in category 1 agreed that production recorded on film should receive copyright protection while three respondents (ten percent) did not approve the granting of copyright protection to works recorded in this medium. An approval for this type of protection was given by eighteen (sixty-two percent) in the second category. Two (six percent) in this group disagreed with this application of copyright.

Table 36 (a)

Responses to Item C. #3

Interest in Copyright	Yes	No	Totals
Yes	3	6	9
No	13	7	20
Totals	16	13	29

$\chi^2 = 1.40$ with df 1

Table 36 (b)

Responses to Item D. #3

Interest in Copyright	Yes	No	Totals
Yes	6	3	9
No	18	2	20
Totals	24	5	29

$\chi^2 = 1.02$ with df 1

The chi-square calculated to ascertain the interrelationship was 1.02 with df 1. Since this value was below the 3.84 required for significance at the 0.05 level, the null hypothesis was accepted. Consequently, no significant difference between interest in copyright and views on protection of works recorded on film was determined.

Case #4. Public Performance in Furtherance of an Educational Objective: Item C. Table 37 presents the data pertinent to this item. The responses to this question totalled twenty-nine. Seven of those respondents (twenty-four percent) from the group interested in copyright agreed that public performances on school premises should be permitted without payment of royalties if no financial benefit accrues therefrom. Two respondents (six percent) from this same group did not support this proposal. In the second group who demonstrated no interest in copyright, sixteen (fifty-six percent) favoured such a provision, but four (fourteen percent) opposed it.

When the chi-square was calculated, its value was only 0.13 with df 1 which would not indicate significance at the 0.05 level. As a result, the null hypothesis was accepted and no significance between interest in copyright and public performance in furtherance of an educational objective was discovered.

Case #5. Term of Protection and Photocopying for Educational Purposes: Item B. Inspection of the data given in Table 38 (a) revealed that twenty-eight superintendents responded to this question. The recorded data for the dependent variable as presented previously in Table 20 (a) were utilized again for the purpose of this analysis.

Table 37

Responses to Item C. #4

Interest in Copyright	Yes	No	Totals
Yes	7	2	9
No	16	4	20
Totals	23	6	29

$\chi^2 = 0.13$ with df 1

In the first category five respondents (eighteen percent) suggested a short term of protection of ten years or under when a corporation is the owner of the copyright and four other respondents (fourteen percent) favoured a longer term. While nine respondents (thirty-two percent) in the second category chose the short term, ten (thirty-six percent) preferred a longer term (see Table 38 (a)).

The chi-square computed when using the Yates' correction for continuity was zero. This is not unexpected since there is little difference in the ratios. The null hypothesis was accepted and no significant difference between interest in copyright and opinions on the term of protection, when the copyright is owned by a corporation, could be established.

Item C. In Table 38 (b) the data relevant to this question are given. This table shows that twenty-eight responses were received. In the interested category, eight (twenty-nine percent) of the responses supported the teachers' right to photocopy and distribute protected materials to students. Only one respondent (three percent) disapproved of this special allowance for teachers. In the second category, comprised of those who did not demonstrate an interest in copyright, seventeen (sixty-one percent) wanted teachers to have this right and two (seven percent) were opposed.

When the chi-square value was obtained, it was 0.37 with df 1 which was too low to be significant at the 0.05 level. Once again the null hypothesis was accepted, and no significant difference between interest and attitudes towards photocopying for educational purposes could be ascertained.

Table 38 (a)

Responses to Item B. #5

Interest in Copyright	Short Term	Longer Term	Totals
Yes	5	4	9
No	9	10	19
Totals	14	14	28

$\chi^2 = 0.00$ with df 1

Table 38 (b)

Responses to Item C. #5

Interest in Copyright	Yes	No	Totals
Yes	8	1	9
No	17	2	19
Totals	25	3	28

$\chi^2 = 0.37$ with df 1

Summary

Four general hypotheses were developed to test the dependence of the opinions expressed on copyright issues on individual demographic characteristics. The interrelationship between each dependent variable (opinion) was then tested with each independent variable (personal characteristics). In all instances the chi-square test applied did not establish any significant difference between each pair of variables.

In order to perform the chi-square analysis, it was necessary to collapse the population to establish a dichotomy for academic qualifications, years of experience, and size of staff supervised. Only four-fold contingency tables were developed because the populations were too small to permit meaningful analysis of multi-celled contingency tables. Since the numbers were frequently quite small, the Yates' correction for continuity was used in all calculations. Some texts recommend using the Fisher Exact test when some cells contain counts as low as 1 or 2. Although in several tables the numbers were very small, even zero, the Fisher Exact test was not applied as, in all these analyses, the results indicated non-significance.

Chapter V

Summary and Conclusions

The Problem

Although the current Copyright Act of Canada fails to address many of the needs of contemporary society, it has not, as yet, been redrafted because of the conflicting demands of consumers and authors. If this new legislation is to assist in the growth and development of Canadian culture and society, every endeavour must be made to meet the needs of all interested groups in an equitable manner. While educators are primarily consumers of copyrighted materials, they are, on some occasions, creators also, and, if they could be persuaded to become actively involved in the formulation of the new copyright legislation, they could exert a moderating influence to counterbalance the demands of the more militant commercial lobbyists. To provide this counterbalance, educators need to be well informed about copyright matters and they need to understand the impact that copyright legislation has on their domain. Educators who can offer informed opinions on copyright issues could provide valuable input into the drafting of new copyright legislation.

The extent of educators' knowledge concerning copyright matters and their views on specific copyright issues was the problem with which this study was concerned. The reported investigation was restricted to Alberta, to Canadian copyright legislation, and to senior educational officials. School superintendents were selected because they are responsible for all educational activities within their jurisdictions.

The study examined Canadian copyright legislation and case law in order to determine which aspects of this legislation were particularly relevant to the educational scene. It also surveyed recommendations which have been made for changes in the Act in order to determine what implications these proposals could have for those involved in providing educational programmes. Once issues which could seriously impact on education were identified, the study sought:

1. to identify specific demographic characteristics of school superintendents;

2. to examine the knowledge level of superintendents in regard to selected copyright issues;

3. to solicit their opinions on key copyright issues; and

4. to determine the association between the demographic characteristics and the opinions expressed by the respondents.

The relevance of copyright legislation to education is not a concern which has generated much interest among educators. To the best of the writer's knowledge no other study in Canada has examined the significance which copyright law has in the field of education. During this time of rapid technological advances, conflicting needs and aspirations of consumers and creators, and widespread disregard for copyright laws, this study has special significance as one attempt to explore the function of copyright in educational endeavours.

Methodology

In order to accomplish the four objectives given above, a questionnaire was distributed to superintendents of thirty school

divisions and counties. These school jurisdictions were chosen because they were moderate in size and did not have ready access to expert legal advice.

The instrument used in the survey was prepared by the researcher. It was designed to facilitate data collection on a topic which might be unfamiliar to a large number of respondents. The questionnaire developed was in two parts - Part A contained four demographic questions, and Part B consisted of five case descriptions with questions arising from these cases. The case descriptions presented the following copyright issues:

1. doctrine of fair dealing;
2. ephemeral recording for educational purposes;
3. protection of works recorded on videotape;
4. public performance in the furtherance of an educational objective; and
5. term of protection when the owner of the copyright is a corporation and photocopying for educational purposes.

The questionnaire was forwarded to the superintendents who, when contacted by telephone, agreed to participate. A ninety-seven percent return was secured.

Findings

The results of the survey are summarized below according to the four demographic items, the five case descriptions, and the comparative analysis of the opinionnaire data.

Demographic Characteristics. Most of the respondents held at least a Master's Degree. The superintendents were experienced, generally in excess of sixteen years. Most of the respondents were

responsible for supervising one hundred to one hundred and ninety professional staff and thus were in school jurisdictions of moderate size. Only one-third of the respondents indicated they were actively interested in copyright concerns and had recently endeavoured to extend their knowledge of copyright legislation.

Case Description Responses. The case description items were of two types. With each case, factual questions were posed in some items and opinion questions were asked in others. The mean score for correct responses on the factual questions was sixty percent which suggests that the superintendents surveyed did have at least rudimentary knowledge of the copyright principles which could affect education.

The survey of the superintendents' opinions on six copyright issues revealed strong support for provisions which would have minimal impact on educational activities. Such provisions would include ephemeral recording on film; public performances on school premises without payment of royalties when no entrance fee is charged and no one receives an economic benefit; a relatively short term of protection of under twenty years for a corporate owner of copyright; and special photocopying privileges for teachers in furtherance of an educational objective. Only moderate support was given to the institution of collectives designed to regularize the reproduction of protected works and to the protection of works recorded on videotape.

Comparative Analysis. This analysis was carried out to ascertain whether or not any significant differences existed between various sub-groups of the population with respect to their opinions on key

copyright issues and certain demographic data. The population was divided according to variables of academic qualification, experience, supervisory responsibilities, and demonstrated interest in copyright. The statistical technique used to analyse the data was the chi-square, non-parametric test. On most issues there was little variation in the views of the sub-groups. The statistical analyses showed there were no statistically significant differences between these sub-groups.

Assessment of the Methodological Technique

The findings reported above are dependent on the procedures and instrument used in the study. In this section some concerns relevant to the research design are examined.

The Sample. While it is possible to gather some general indicators from the survey of this rather small and relatively uniform sample, the accuracy of the analysis for the purpose of prediction may not be reliable since the counts in some of the sub-groups when the chi-square test was applied were very small.

The Instrument. The major problem in the design of the instrument was finding an approach which would appeal to the respondents at their level of understanding. As the assumption was made that most of the superintendents would respond only if they could complete the questionnaire quickly, the case description approach was used. This approach limited the survey to only a few basic copyright principles and eliminated the possibility of broad testing on knowledge of and opinions on copyright issues. The results reported are, therefore, based on only a few specific copyright issues.

The final difficulty with the instrument was that a definitive answer cannot be given to some questions because they are open to

interpretation by the courts. In these instances the researcher had to make a judgement and select the answer which would probably be the court ruling.

Conclusions

From the data reported in Chapter IV and summarized above the following conclusions may be drawn:

1. Most school superintendents appear to have some understanding of basic principles of copyright law. This understanding is, in most instances, certainly not the result of directed study. One may, therefore, conclude that this understanding is that of the "reasonable man". In the cases presented, the superintendents may not have known the correct response but gave the response that the "reasonable man" would give in this situation.

2. The majority of superintendents would endorse those recommendations for changes in Canadian copyright legislation which would place minimal restrictions on the use of protected materials in the furtherance of educational objectives. These superintendents apparently view educators as primarily consumers of copyright materials. They are, therefore, more concerned about consumer rights than creator rights.

3. When the populations were dichotomized on the basis of qualifications, experience, supervisory responsibility, and interest in copyright and their views on copyright issues were analysed statistically, no significant difference between the sub-groups was established. The investigation suggests that strong support from all classes of superintendents could be expected for recommendations to continue protection of works recorded on film and to

permit ephemeral recording, public performance, and photocopying in furtherance of an educational objective. Very limited support could, however, be anticipated for an attempt to establish copyright collectives, and no real consensus could be expected on the appropriate term of protection when the owner of the copyright is a corporation.

Implications for Educators

From the review of Canadian Copyright Law and relevant case law and the review of literature concerning revision of copyright legislation certain implications for education emerge. The significance of these implications for education is probably not fully appreciated by many educators. Since major problems could develop if producers become more militant in enforcing copyright legislation, educators should be more aware of the implications of copyright law for education.

Existing Copyright Law and Case Law. The following general principles which do impinge on educational activities can be established for the review of current copyright legislation and case law. The implications which each general principle has for education are explained.

1. Copyright gives the author the right to control the use of his or her intellectual creation.

A teacher who assumes the rights of the owner, that is, who reproduces, performs in public, or adapts copyright material without the written consent of the owner is infringing copyright. Exceptions provided by statute to this general principle include reading or

reciting a short extract in public, and a public performance given by means of a radio or gramophone.

2. Copyright is a form of incorporeal property.

Although a teacher may own a copy of a workbook, he/she does not own the right to reproduce copies of that workbook for distribution to the class.

3. Copyright protects the form of expression, not the ideas.

While the teacher is not free to copy the form of expression, he/she is free to use the ideas, for example, to teach mathematics by the finger math techniques, or to copy a plot in a play or novel.

4. Copyright is automatically accorded to a work produced in Canada and registration is not compulsory.

Works produced in Canada are protected by copyright even if there is no statement to this effect on the work.

5. Citizens from other countries of the Berne and Universal Conventions receive in Canada the same protection as Canadian Citizens.

A teacher who reproduces copyright material published, for example, in the U.S.A., would be infringing Canadian copyright laws.

6. To be protected by copyright a work must satisfy the following criteria:

(i) it is an original expression of ideas;

(ii) it is a literary, dramatic, musical or artistic work;

(iii) it is created by a citizen of either Canada or a Convention country;

(iv) it is in permanent form.

Educators should note that under current legislation videotapes and musical works which are composed and recorded directly on tapes

may not be protected by copyright.

7. Copyright protection is afforded only where there has been some degree of skill in the creation of a form of expression.

The following are not protected by copyright;

(i) titles, names, short phrases, and slogans, listings of ingredients or contents;

(ii) ideas, methods, systems, schemes, or games;

(iii) forms for recording information and the idea of a character.

8. Copyright protection is offered for a time certain - usually the life of the author plus fifty years. Photographs, sound records, and government publications are protected for only fifty years.

Much of the literary and musical works from the nineteenth and earlier centuries now lie within the public domain.

9. The author is the first owner of the copyright except when the author is under a contract of service. The owner of the negative is the first owner of the copyright in a photograph.

If the educator produced a work for a school system while in the employ of that school system, the employer (the school board) and not the educator would be the first owner of the copyright.

10. The author always has the right to claim authorship and to restrain distortion or modification which is prejudicial to him/her.

An author who has assigned his/her copyright could obtain an injunction to prevent the owner of the copyright from modifying or distorting the work.

11. Rights may be assigned wholly or partially if in writing and duly signed.

Because registration is not mandatory in Canada, locating the actual owner of the copyright is often difficult.

12. Under the current legislation some privileges are extended to educational organizations and materials.

Certain organizations including colleges and schools are not compelled to pay royalties for public performance of any musical work in furtherance of an educational object. There is, however, a possibility that such a performance could be prohibited by an injunction.

Providing acknowledgement is given, short passages from published literary works may be included in a collection designed for use by schools. This concession is restricted to two works per author each five years.

13. Infringement will occur only if a substantial portion of a work is copied.

What would be regarded as a substantial portion must be determined by the courts. It may be only a small portion if that portion contains the essence of the work.

14. Fair dealing for the purpose of private study, research, criticism, review or newspaper summary is permitted.

The degree of competition between the extract and the original will be the criterion the courts will use to decide whether or not there has been fair dealing.

15. In any action concerning infringement of copyright the usual presumptions are that copyright does subsist in the work and that the author is the owner of the copyright.

Similarities in language, inclusions, omissions and errors may provide sufficient evidence to prove copying.

16. When copyright is infringed, the plaintiff may obtain damages or secure an injunction and the defendant may face summary conviction.

Since an employer is liable for any tort committed by an employee, a school board may be held liable for any infringement of copyright committed by a teacher and could be required to pay damages and a fine if it loses an action. A school board should ensure, therefore, that all educational officials within its jurisdiction have at least some understanding of the general principles of copyright law and that they establish and communicate to teachers policies relevant to copyright matters. Teachers would then be well informed about what practices would or would not be acceptable to the administration.

Proposals for Revisions. The following recommendations are being considered for inclusion in the new Copyright Act. If they are introduced into the new Act, those provisions could have a significant impact on school jurisdictions. An explanation of the implications of each proposal is provided following the proposal.

1. Establishment of a fixed term for corporate bodies to hold the copyright in a work.

The explicit extension of the protection of the Act to corporate bodies for a time certain would remove any ambiguity concerning either the ability of a school board to hold the copyright in a work or the term during which protection would be assured.

2. *Recognition that the author of the work and not the employer should be the first owner of the copyright.*

School boards would then have to contract with an employee in order to secure the copyright in a work.

3. *Videotapes and videodiscs should be accorded the same protection as movie films.*

School jurisdictions producing videotapes or videodiscs would be certain that works recorded by these means were also protected by copyright.

4. *Provision of precise criteria for use of copyright materials in teaching activities.*

If the permissible uses of copyright materials in teaching activities were statutorily defined, the anxiety among educators over the use of copyright materials would be eliminated.

5. *Replacement of the doctrine of fair dealing by the doctrine of fair use.*

Whereas fair dealing is now viewed as excused infringement, fair use would be considered a non-infringing activity. The substitution of the equitable doctrine of fair use for fair dealing would greatly simplify any legal inquiry as the need to establish a prima facie case of infringement would be dispensed with.

6. *Formation of owner collectives.*

This could be a relatively simple and cheap means for school jurisdictions to solve many of the current difficulties regarding the use of copyright materials for educational purposes.

7. Abolition of summary conviction and extension of the civil remedies which can be applied.

If a school jurisdiction is found guilty of infringing copyright, substantial punitive damages could be awarded, especially if the plaintiff suspects that this type of infringement is a widespread practice, and he/she deems it necessary to set an example to others.

If educators wish to contribute to the discussion now in progress concerning the drafting of new copyright legislation, they must realize not only the implication of the current law but also the implications inherent in the proposed changes. Only then will educators be in a position to present a well-argued case on behalf of educational interests.

Implications for Legislative Draftsmen

The findings reported in this study reveal that among senior educational officials there is strong support for ease of access to protected materials to assist teachers in fulfilling their professional responsibility of ensuring that the accumulated knowledge of man is readily available to future generations. While school superintendents are particularly concerned about consumer rights, producers are concerned about the rights of the creators and may not realize the particular copyright difficulties encountered in the realm of education. How legislators will strike a realistic balance between the rights of creators and the demands of consumers when technology is developing at such a rapid rate is certainly a most complex issue.

The findings of this study do carry certain implications for the architects of the new Canadian copyright legislation. The results of

the survey indicate quite clearly that educational officials would be opposed to copyright legislation which may give an advantage to producers and which, as a consequence, places restrictions on the transmittal of information to students. Legislative draftsmen can anticipate educators making the following demands:

1. provisions which will allow teachers to record and play back in class audio and video programmes which in their view would be beneficial for students,

2. continued protection for works recorded on film,

3. exemptions which would permit public performances in furtherance of an educational objective,

4. short term protection (twenty years and under) when a corporation is the owner of the copyright, and

5. permission for teachers to make and distribute to students copies of protected works, providing teachers do not profit from these activities.

However, the architects of the new copyright legislation could expect educators to be only moderately supportive of protection of works recorded on videotapes and the establishment of collectives to regularize the reproduction of protected works.

The Federal Government has obviously recognised the complexity of the whole copyright question because the Department of Consumer and Corporate Affairs has commissioned extensive studies into many aspects of copyright law. These studies have, however, not seriously addressed copyright issues from an educational perspective. The legislative draftsmen charged with formulating the new Canadian Copyright Act would be well advised to examine the recommendations

for revisions in light of the views of educators, some of which have been identified in this study. They must weigh carefully both the economic and moral implications of all provisions and ponder the long-range consequences of the legislation.

They must realize also that, if consumers (for example educators) and creators continue in their adversarial roles, the production/consumption cycle could be seriously eroded to the detriment of all (Parkinson, 1979: 38). To ensure that this will not happen and that the technosystem will function for the benefit of all, the legislative draftsmen must be cognizant of the unique concerns of education. The present study, which attempts to assess educators' understanding and views on copyright issues may provide some insights which could be beneficial to those involved in revising Canadian copyright laws and might assist in the development of just legislation which would gain general acceptance.

Speculations

The speculations given in this section are not based on the data presented in this study, but arise through study and contemplation of the topic. The views expressed are those of the writer and no claim is made regarding their reliability. However, the writer believes there are strong indicators which suggest that these speculations are plausible. Each speculation is presented as a proposition which is then briefly discussed.

Proposition #1. Attempts by creators to levy fees for multiple use of protected works will not be successful.

Some creators are in favour of levying these fees as a means of ensuring a fair return to them for their intellectual efforts. Apart

from the establishment of collectives, user fees for libraries and taxes on audio and video tapes have been suggested. The fees thus collected from consumers would be channelled back to the creators.

The difficulties inherent in such a system are so great that it is most unlikely these levies could provide any real benefits for the creators and they would be a substantial cost and great irritation to consumers. Much of the money would be absorbed by administration and would never be returned to the creators. Developing a formula for equity distribution of available moneys would be extremely difficult. Probably most of the appropriation would go to the more successful creators who may not really need the extra income and only a minimal amount would be available to the struggling authors who may have a more urgent need for this additional income.

Library fees would undoubtedly be resented and resisted by library users. Creators maintain that library use costs them sales and they should be compensated for this loss. However, libraries are also purchasers and many lesser-known authors could have very low sales if libraries were not purchasing and virtually advertising their works.

A more esoteric reason for the failure of any usage fee scheme involves the free flow of ideas and the transmittal of knowledge. An attempt to limit access to ideas and knowledge would be most detrimental to the whole of society. Even creators do not work in a vacuum; they require intercourse with other minds to generate new ideas and to add to man's store of knowledge. Thus even creators require ready access to the works of others.

Proposition #2. Only highly efficient publishing houses will remain viable business operations.

Consumers would have little interest in copying if they could purchase high quality originals from a publisher at a lower cost than a copy. Publishing houses must, therefore, aim at mass producing cheap, but high quality works. Since such efficiencies can usually be achieved only in large-scale operations, small publishing houses may not be able to compete with large multinational publishers and could be forced out of business. Economics is probably the only effective key in controlling copying.

Proposition #3. A significant increase in litigation involving copyright will occur when the new legislation becomes law.

Once the new law comes into force, there could be considerable court action as the various interest groups seek to determine the parameters of the legislation. At present, although many of these groups are quite frustrated, they are adopting a wait-and-see attitude. When the new law is introduced, they will want precise interpretation of the law, and, therefore, will test in court any questions which have not been adequately addressed in the legislation and which continue to be irritants.

Proposition #4. A greater awareness of the ramifications of copyright-related activities will emerge.

This awareness will result from the publicity and discussion surrounding the introduction of the new Act and from the subsequent litigation. Commercial interests will undoubtedly be watching these developments very carefully in order to turn any decision to their advantage. Whether the educational community will examine its

practices and articulate its needs before coercive measures such as court action are taken remains to be seen. What is certain is that the educational establishment will be drawn into the controversy eventually. It would take only one exemplary court case involving a school jurisdiction for all educators to realize the consequences of their lack of interest and participation in this debate.

If educators wait until the battle is brought to them, they will have already lost considerable ground. Such a situation would ultimately be detrimental even to the creators as it would contribute to the disintegration of the production/consumption cycle. To avoid such an occurrence, educators must become informed and involved now. They too must be vocal in expressing their needs and their concerns. A compromise solution which will allow consumers and creators to work in harmony rather than in conflict must be achieved. This is essential to ensure the continued growth, development, and reassessment of ideas which are fundamental to the advancement of human thought and knowledge.

Recommendations

The following recommendations are offered in the hope that they may be of some benefit to educators who may be required to address some of the issues raised in this study. It is recommended that:

1. educational agencies such as the Conference of Alberta School Trustees Association initiate:

   (a) an investigation into present practices relevant to copyright and the implications of such practices, and

   (b) an assessment of educational needs in regard to copyright;

2. school boards establish policies pertinent to copyright and ensure that educators in their employ are aware of the complications which could arise from an infringement of copyright;

3. educators make a concerted effort to ensure that their views on copyright issues are communicated to the architects of the new legislation.

Further Research

This study examined copyright issues as they relate to education at the Grades 1 to 12 level. Further research might consider either replicating this study with different groups or exploring this topic in greater depth.

Replication. Possible studies in this area are:

1. a comparative study involving educators and authors (consumers and producers); or

2. a study examining the reactions of school administrators and teachers.

In-depth Exploration. Possible studies requiring more in-depth research include:

1. a study examining other or additional copyright issues which are relevant to basic education;

2. a study directed towards the post-secondary level and involving issues that are of concern at this level.

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Appendix A

Telephone Message

(Name of individual), my name is Amelia Turnbull and I am a graduate student in the Department of Educational Administration at the University of Alberta. I am calling you in connection with a research project being carried out under the direction of Dr. E. Seger, Chairman of the Department of Educational Administration.

This study concerns Canadian Copyright legislation and is designed to obtain your reaction to some of the proposed changes in the Act which may be of particular concern to educators. The findings of this study could provide some guidance to those charged with the responsibility of drafting the new legislation.

If you agree to participate in this project, I shall forward to you a questionnaire containing five brief case descriptions to which you are asked to respond. Completing the questionnaire should take under one hour of your time. Would you be prepared to participate in this study?

(If agreeable) Thank you very much. I shall send the questionnaire to you immediately. I am sure you will find it most interesting.

Appendix B

Letter to Participants

This letter is to confirm our recent telephone conversation regarding a study which I am conducting as a candidate for the degree of Master of Education in the Department of Educational Administration at the University of Alberta.

I wish to thank you for agreeing to participate in this study which, you will recall, concerns Canadian Copyright legislation. This study is being conducted under the direction of Dr. E. Seger, Chairman of the Department of Educational Administration, to obtain your views on some clauses of the Copyright Act which have particular relevance to education. As the Federal Government is currently reviewing this Act, your views could provide some guidance to those responsible for drafting the new legislation.

Enclosed is the questionnaire which I would appreciate your completing and returning in the envelope provided. Your reply will, of course, be confidential and the code number on the questionnaire will be used merely to identify those who have returned the completed questionnaire. I would be grateful if you would return the questionnaire at your earliest convenience.

Thank you for your assistance and co-operation.

Canadian Copyright Questionnaire

This questionnaire is designed to obtain your views on particular clauses of the Canadian Copyright Act which have an impact on education. Even if you have not had an opportunity to study Canadian Copyright legislation, you will be able to respond as you merely have to give your reactions to the five case descriptions presented.

The questionnaire is divided into two sections. In Section A you are asked to provide some information on your academic and professional background. Section B contains the five case descriptions and the questions pertinent to each case. After you have considered each case, please respond to the questions given below.

Thank you for taking time to participate in this survey. Your co-operation is greatly appreciated.

If you have a particular interest in this topic and you would like to receive a summary of my findings, please supply your name and address when you return the questionnaire.

Name _____

Address _____

_____

Postal Code _____

-1-

Section A

Please read all instructions and statements, and attempt to answer all questions. If you are unable to answer any question, provide a brief explanation.

For each item, except Item C, select the response which best represents your reply and circle the corresponding number to the right of the page. Circle only one number in each item. For Item C give the number requested.

Item A. What is the highest academic qualification you have obtained?

Bachelor's Degree	1
Bachelor's Degree plus additional courses	2
Master's Degree	3
Doctorate	4
Other	5

Item B. For how many years have you been employed as an educator?

1 - 5 years	1
6 - 10 years	2
11 - 15 years	3
16 - 20 years	4
21 or more years	5

Item C. How many educational personnel do you supervise?

Give exact number. _____

Item D. Have you in the last five years endeavoured to extend your knowledge of Canadian Copyright law by either professional

reading or attending workshops, seminars, or courses in copyright?

Yes	1
No	2

Section B

Please study the following cases before you respond to the questions given below each case.

For each item in this section, select the response which best represents your reply and circle the corresponding number to the right of the page. Circle only one number in each item.

Case #1

The Laissez Faire School Division purchased a photocopier and placed it in the Rocky Road School. Mrs. Koppikat, one of the teachers at the Rocky Road School, borrowed a book from the school library and, using the photocopier, copied ten pages from the two-hundred page book. When the owner of the copyright of this book learned about this incident, he announced he would bring legal action because this was a clear case of infringement of copyright.

Responses to Case #1

Item A. Would the owner of the copyright bring action against

the teacher, Mrs. Koppikat? 1

the principal of the Rocky Road School? 2

the Laissez Faire School Division Board? 3

Item B. The Canadian Copyright Act does provide several clauses under Fair Dealing as a statutory defence to a claim of infringement. For example, in the case of reproduction, infringement will occur only when a substantial part of the work has been copied. In your judgement, would

copying ten pages from a two-hundred page book constitute an infringement under the Fair Dealing clause? 1

not constitute an infringement under the Fair Dealing clause? 2

possibly consititute an infringement depending on the quality of the pages copied? 3

Item C. In some countries collectives, which regulate the utilization of works by users and which enforce copyright laws, have been established. Users can then obtain a licence from the collective to produce the works required and the fees thus collected are distributed among the copyright owners. Would you favour the introduction of this type of collective in Canada as a possible way of controlling unauthorized reproduction?

Yes 1

No 2

Case #2

Mr. Goodall was a social studies teacher who liked to present his students with the latest information. Although he found many of the television documentaries and news programmes very informative, he could not always watch them at the times they were being shown. He, therefore, bought a videotape machine and his wife taped the programmes which interested him. He could then watch these programmes at his

convenience. Ocassionally, when there was a particularly relevant programme, Mr. Goodall would take his videotape to school and show the programme to his students.

One student in Mr. Goodall's class, Jeremy Singer, was the son of a C.B.C. producer. When Jeremy told his father about the videotapes Mr. Goodall was showing in class, Mr. Singer recognized some as ones he had produced. He phoned Mr. Goodall and advised him that the C.B.C. was contemplating taking legal action against him and the school board.

Responses to Case #2

Item A. Is the C.B.C. likely to be successful if it brings legal action against:

(a) Mr. Goodall for videotaping a programme for his own private study?

Yes 1

No 2

(b) the school board for allowing Mr. Goodall to play the videotape of the programme to his students?

Yes 1

No 2

Item B. Do you believe educators should have the right to record and play back in class audio and video programmes which they think would be beneficial for students?

Yes 1

No 2

Case #3

Miss Steiner's Grade 1 class at Astoria School had, through improvisation, created a number of their own little plays. Miss Steiner was so pleased with their efforts that she videotaped some of the plays and she later showed this tape at a workshop she attended. When Mr. Doolittle, a consultant from the Regional Office of Education, heard about Miss Steiner's tape, he asked if he could borrow it to see the kind of work she was doing with her students. Miss Steiner readily agreed to lend him the tape and, when he saw it, he decided to make several copies so that he could show other teachers what innovative dramas Grade 1 students could produce. He then returned the original, and during the next few months he showed his copied videotapes in several school jurisdictions. When Miss Steiner heard what Mr. Doolittle was doing, she complained to her superintendent.

Responses to Case #3

Item A. Did Mr. Doolittle infringe copyright law when he made unauthorized copies of Miss Steiner's videotape?

Yes 1

No 2

Item B. Would Mr. Doolittle have infringed copyright legislation if Miss Steiner had recorded the plays on film and he had made videotape copies of the film?

Yes 1

No 2

Item C. Should productions recorded on videotape receive copyright protection?

Yes 1

No 2

Item D. Should productions recorded on film receive copyright protection?

Yes 1

No 2

Case #4

The drama class of Starstruck High School decided that their project for the semester would be to stage the musical, "Jesus Christ, Superstar". They planned to present their show in the school gymnasium and to invite other students and parents to attend. News of this ambitious undertaking spread, and one week before the scheduled performance the drama teacher, Mr. Ham, received a letter from the lawyer representing the owners of the copyright of this musical. The lawyer advised that, if the drama class did not voluntarily cancel the performance, he would seek an injunction to prevent the performance from being given and that his clients would desist from this action only if compensation was paid to him.

Responses to Case #4

Item A. When a performance is given for an educational purpose, can the owners of copyright demand compensation?

Yes 1

No 2

Item B. When a performance is given for an educational purpose, can the owners of the copyright obtain an injunction?

Yes 1

No 2

Item C. Should a public performance on school premises, where no entrance fee is charged, and where no one obtains a financial benefit in association with the performance, be permitted without the payment of royalties.

Yes 1

No 2

Case #5

In 1921, the Metropolis School District #007 published a grammar book which was used for several years in its schools. In 1979, Miss Ferret, who taught English at the Top Notch High School in the Metro View School Division, found her mother's copy of this textbook and after examining it carefully, decided it was still an excellent basic grammar text. As by 1979, copies of this book were no longer available, she used the school's photocopier to copy a few chapters and she distributed these photocopies to her students. When news of Miss Ferret's success with this "new" grammar course spread to the superintendent of the Metropolis School Board, he protested to the Metro View School Division and demanded compensation.

Responses to #5

Item A. Where a corporation, e.g., a school board, is the owner of the copyright of a work, what is the term of protection?

20 years 1

50 years 2

life of the author and a period of fifty years after his death 3

unspecified 4

Item B. What term of protection should a corporation have when that corporation is the owner of the copyright?

10 years and under 1

11 - 20 years 2

21 - 30 years 3

31 - 40 years 4

41 - 50 years 5

Other (please specify) 6

Item C. Should a teacher who does not profit from the distribution of copied material have the right to make copies for distribution to students?

Yes 1

No 2

Appendix C

Thank You Letter

Thank you for completing and returning the questionnaire on Canadian Copyright legislation. Your co-operation and assistance were greatly appreciated.

Enclosed is a copy of my findings which you requested. I trust you will find them of some interest.

Thank you once again for the contribution you made to this study.